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ABSTRACT

This annual publication examines political, legal, social, and educational issues concerning indigenous peoples around the world during 1995-96. Part I highlights news events and ongoing situations in specific countries, including threats to indigenous territories, human rights violations, political victories, developments at the United Nations, and activism by indigenous women. In the Arctic, resolutions adopted at the 7th Inuit Circumpolar Conference were concerned with self-determination, conflict over Inuit rights to harvest bowhead whales, ongoing conflict between the Gwich'in and Inuit peoples in northeastern Alaska over oil drilling on indigenous land, and continued efforts of indigenous organizations to preserve subsistence hunting and fishing rights. In North America, news events and ongoing situations include: (1) conflict between Canada's Lubicon Indian Band and the Daishowa Paper Company and UNOCAL sour gas plant regarding the environmental degradation of Native land and harmful health effects; (2) the Canadian government's role in the continued exploitation of mineral rights by foreign industries in northern Labrador; (3) organized efforts of the Blackfeet, Western Shoshone, and Apache tribes to protect Native lands and sacred sites in the United States; and (4) the Leonard Peltier case. Additional sections cover Mexico and countries of Central America, South America, the Pacific and Australia, east Asia, southeast Asia, south Asia, and Africa. Part II describes work on behalf of indigenous rights in the United Nations with regard self-determination, land and resource rights, access to education, and the provision of culturally relevant education. Contains maps, photographs, and a list of IWGIA publications. (LP)

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THE INDIGENOUS WORLD 1995-96

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THE INDIGENOUS
WORLD
1995-96

Copenhagen 1996

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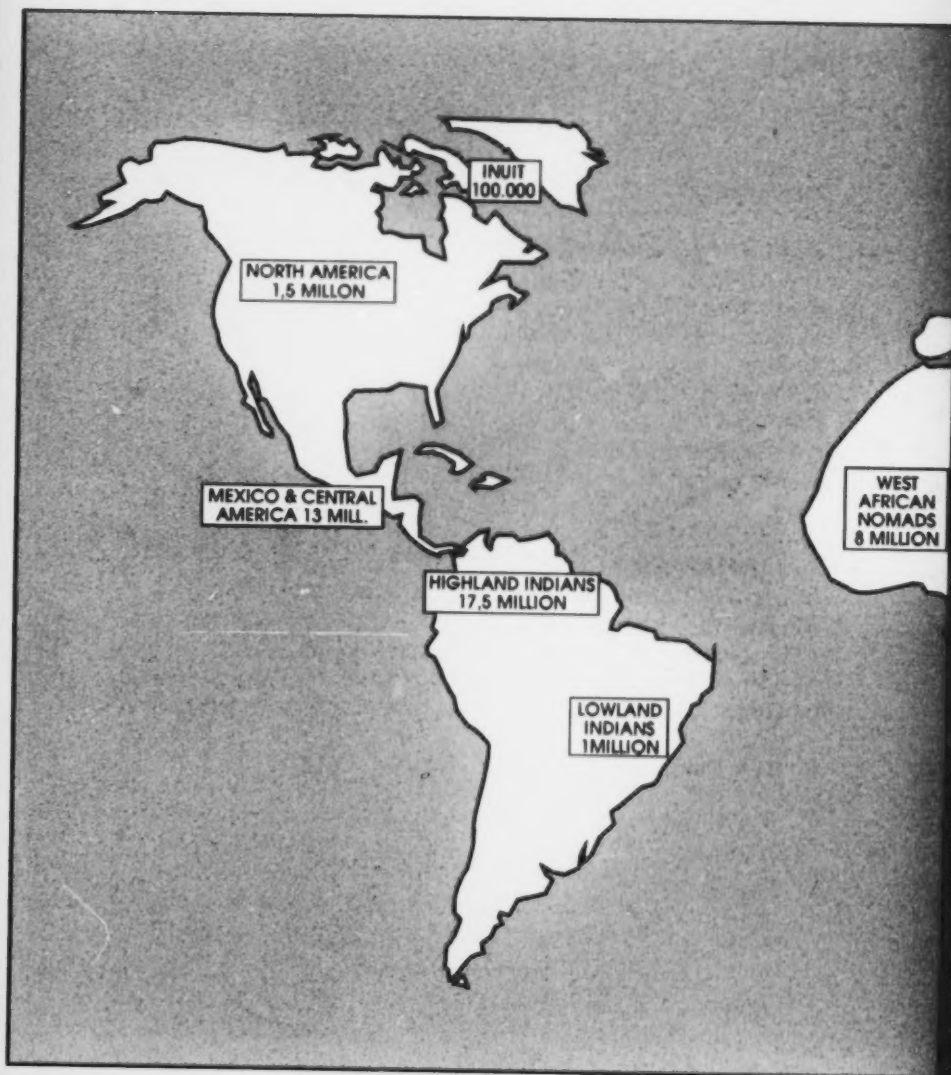
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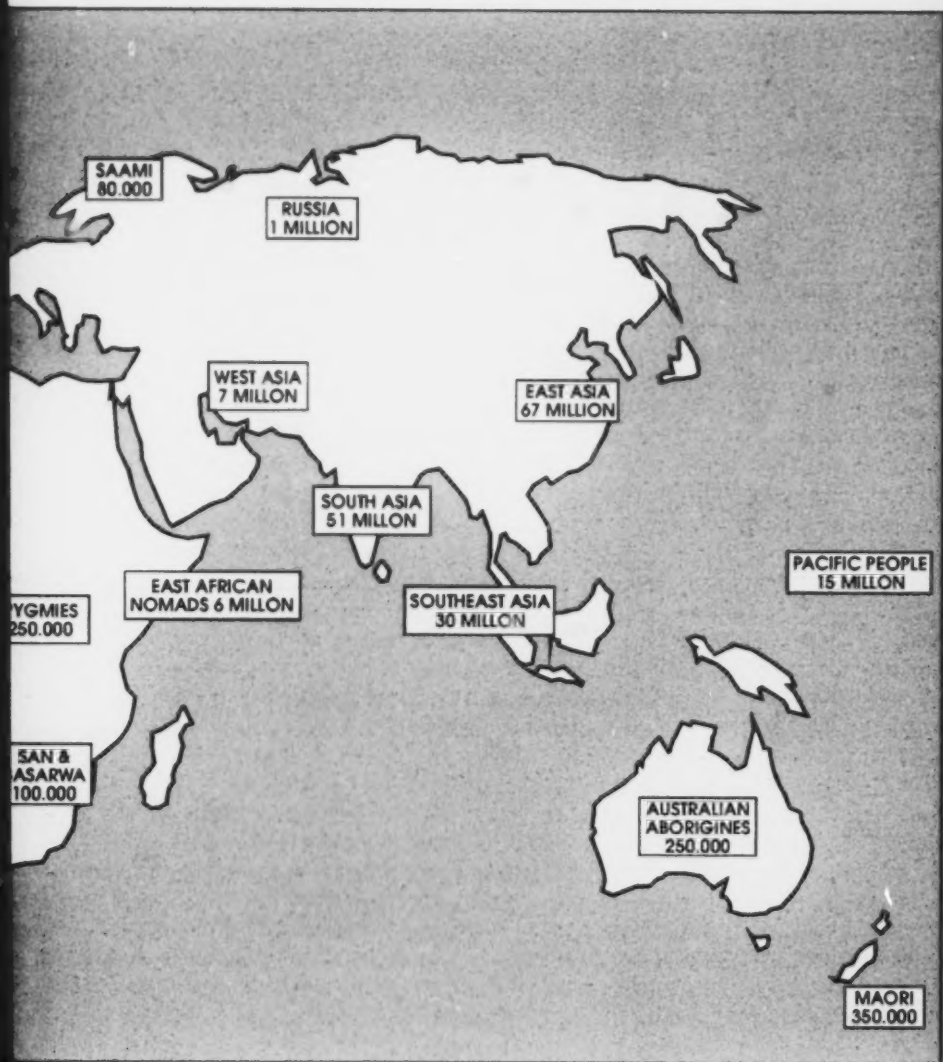
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INTRODUCTION

1995 and 1996 have shown that indigenous peoples' situation and problems are receiving increasing attention on the global agenda. This is reflected in the work of the United Nations, the World Bank, the Asian Development Bank and various bilateral donor agencies. However, there is often a considerable gap between words and good intentions and action, and indigenous peoples all over the world still experience immense suffering.

As is reflected in this edition of *The Indigenous World*, the problems of indigenous peoples are often directly related to the dynamics and interventions of large scale capital and multinational corporations. The traditional territories of indigenous peoples often has high potential economic value for governments and for international corporations, and activities such as mining, oil exploitation, logging, dam building and establishing national parks, constitute an enormous threat to indigenous peoples' territories. *The Indigenous World* provides many examples of these threats.

Threats to Indigenous Territories

The oil extraction in Ogoniland, Nigeria, carried out by Shell has resulted in environmental destruction on an enormous scale. The indigenous *Ogoni* peoples are protesting against this mass destruction of their environment and in response they have been subject to horrifying human rights abuses by the Nigerian military government. The repression of the Ogoni peoples reached the international headlines in 1995 when the Ogoni leader, Ken Saro-Wiwa and eight other Ogoni activists were hanged.

In Colombia, the *U'wa* people's territory, like many others in the Amazon region, is being threatened by oil companies. The *U'wa* have demonstrated their opposition to the oil exploration in their territories and although not stated explicitly in the contracts, oil exploitation licences in Colombia give multinational companies the right to decide the fate of indigenous lands.

In Peru, the government has launched an aggressive promotion of the hydrocarbon industry and authorised greater facilities for the development of oil activities including exploitation on indigenous lands without respecting indigenous rights and without prior consultation as laid down in ILO Convention 169. This has resulted in grave consequences for the indigenous peoples in terms of environmental destruction among other problems.

In West Papua, the PT Freeport Indonesia Company is operating the world's largest gold mine and the second largest open-pit copper mine. Their operations have resulted in environmental destruction and human rights abuses of the indigenous peoples of the area, and conflicts and killings were reported on a large scale in 1995.

In Labrador, Canada, extensive mineral exploitation is taking place and more than 40 companies have active drilling programmes in the territories of the *Innu* and *Inuit* without their prior consultation or consent.

In the Philippines, the government continues to allow 'flagship' development projects and investments in indigenous peoples' areas. In Northern Luzon two dams are to be constructed despite resistance from indigenous groups which are not reassured by the government's promise that no one will be forcefully relocated.

In Namibia, the government is planning to construct a huge dam in the northern part of the country where the *Himba* people live. The government sees the dam as a solution to Namibia's future energy needs and it is the biggest industrial project in Namibia since independence. However, consultation with the *Himba* people has been negligible and those *Himba* who risk losing their lands are left to try to resist the project alone.

In Kalimantan, Indonesia, industrial tree planting is taking place on a large scale in the indigenous *Dayak* areas. In 1995 and 1996 serious conflicts were reported between industrial tree development projects and the *Dayak* people. The *Dayaks* want their ancestral lands to be returned and on several occasions have burnt down company property.

In Sabah, Malaysia, many indigenous communities have lost their lands due to logging when almost fifty per cent of Sabah's total forest area was gazetted as Forest and Park Reserves. Most forest reserves are for logging and the indigenous communities were not informed that their customary lands were included in these reserves. Likewise, many indigenous peoples have lost lands to industrial tree plantation companies.

In Tanzania, the *Maasai* are facing problems of losing their traditional lands which constitute a threat to their lifestyle. They have been evicted from the Mkomazi Game Reserve as the government and the wildlife lobby claim their presence is a threat to the game.

Until mid-1995, the *Van Gujjars* of Uttar Pradesh, India, had faced the threat of eviction from their ancestral forest lands. However, they have successfully organised themselves and drawn up a Community Forest Management of Protected Areas Plan. If implemented, this will create the first Peoples' National Park in India.

Human Rights Violations

Severe human rights abuses against indigenous peoples continue to take place in many parts of the world. The situation is extremely serious in several parts of Asia where many governments refuse to recognise their indigenous populations and where severe repression takes place under the pretext that national unity is being threatened by the indigenous demand of self-determination.

In many parts of Nagaland the Disturbed Area Act is in force and thus under military control with all fundamental civil rights suspended. The Indian Armed Forces in Naga areas have harassed, tortured and killed people, and in some instances whole villages have been razed to the ground.

In East Timor, the Indonesian repression continues. In September 1995 riots and demonstrations broke out during which police are said to have fired indiscriminately into crowds, to have broken into homes and generally terrified the people. Many Timorese were detained and there have been reports of torture.

Tibet remains under Chinese occupation and the political persecution and surveillance reached new heights in 1995-6. Human rights monitors report more than 700 political prisoners, the highest figure since the end of the Cultural Revolution in the 1970s. Torture continues to be used during interrogation and imprisonment, and four young political prisoners died in 1995 as a result of torture.

In the Chittagong Hill Tracts, Bangladesh, the influence of the armed forces is pervasive and detailed reports of human rights abuses by security forces continue to be received. There are reports of extrajudicial killings by the security forces and the violence and harassment against the indigenous peoples, in particular students, has escalated.

In Burma violations of human rights are increasing daily in *Karenni* areas. Every month hundreds of villagers are sent to the

front line, and often they are used as human shields for the advance troops. Hundreds of villages have been relocated.

Increased Recognition

Though the problems are still immense, the indigenous movement is becoming stronger and the situation of indigenous peoples, in some countries at least, has improved. This is the case, broadly speaking, in some countries in the Arctic area, South and Central America and Australia.

In Canada, work continues to establish the new territory of Nunavut in 1999, in which the Inuit will make up about 90 per cent of the population.

In Australia the past year has been one of indigenous agenda setting. Three major reports were published in 1995 by indigenous-controlled bodies with official status as advisers to the national government. These reports are a response to the Prime Minister's commitment to an 'indigenous social justice package'. The recommendations are progressive, and the process has been a unique example of thorough national policy development by indigenous people. However, though the new government has members who are sympathetic to indigenous issues, the fundamental recognition of self-determination has not penetrated Australian social and political circles.

In Guatemala, the indigenous peoples have won four major victories: the Agreement on the Identity and Rights of the Indigenous Peoples; the first *Ki'che* electoral victory in 500 years in the country's second largest city; the election of several indigenous leaders to the Congress of the Republic, and the ratification of ILO Convention 169 by the Guatemalan Congress. These are important landmarks in the history of Guatemala where for the first time the peace negotiations between the guerillas and the army allow the indigenous *Mayan* people to make proposals and participate as a group. The number of Mayan organisations continues to increase.

In Peru and Bolivia indigenous peoples have likewise succeeded in winning some important local elections and in obtaining the position as mayor.

Also the recent developments in South Africa give hope for optimism for indigenous peoples in the African context. The new Constitution can be interpreted as progressive on indigenous issues. For instance, it provides for the right to cultural freedom and the right of traditional leaders to safeguard cultures.

Developments at the United Nations

The determined work of indigenous peoples in the United Nations' Commission on Human Rights and its Subcommission and Working Group on Indigenous Peoples continued during the past year. There are two main issues on the agenda, namely the draft Declaration on the Rights of Indigenous Peoples and the establishment of a permanent forum for indigenous peoples.

In the previous year work had intensified greatly with the formation of the intercessional working group to deal with the draft Declaration, which held its first meeting in November 1995. The draft Declaration was discussed and commented on by governments and indigenous peoples, and the indigenous representatives were unanimous in keeping the draft Declaration in its present wording. At the 52nd meeting of the Commission on Human Rights, the Greenland Home Rule, together with other supportive governments, achieved a consensus in the Commission to create a new and separate agenda item on indigenous issues. In the speeches given under this item, many indigenous peoples and governments mentioned the possible establishment of a permanent forum. One of the big challenges for indigenous peoples in the coming year seems to be the discussion among themselves about their wishes and aspirations for the structure, scope and mandate of such a forum.

Indigenous Women

Indigenous peoples made an active contribution to global policy discussions on gender issues over the past year. This took place most notably during the UN World Conference for Women in Beijing, 1995. The indigenous women had organised themselves in the Indigenous Women's Network with the participation of women from all parts of the world and representing more than fifty different organisations. During the seven days of work they produced the Beijing Declaration of Indigenous Women in which they emphasised their special areas of concern and criticised the framework of the conference. They stated that the poverty that most indigenous women suffer is caused by the overall and powerful economic and political forces of the world and they demanded a clearer acknowledgement of this by the United Nations. The Beijing work was a promising start to a new and more intensified cooperation between indigenous women from different continents, and one of the hopes for the near future is that the women's networks will be given the

opportunity to strengthen themselves and develop strategies further for alleviating the common problems faced by the indigenous women of the world.

IWGIA's Work During the Past Year

During 1995 and 1996, IWGIA has continued its efforts to expand its network and cooperation with indigenous organisations globally.

IWGIA has continued and increased its already well-consolidated support work in South and Central America. In these regions IWGIA supports a number of projects carried out by indigenous organisations. One of these is a large demarcation and land titling project in Peru which has generated a lot of valuable experience. Other types of projects which IWGIA supports are, for example, institution and organisation building, media and communication.

1995 was also the year IWGIA had targeted for expanding its contact network in Asia. A major event was the conference on indigenous peoples in Asia which IWGIA organised in Thailand in cooperation with the Asia Indigenous Peoples Pact (AIPP) and the Inter-Mountain Peoples Education and Culture in Thailand Association (IMPECT). The aim of the conference was to provide a forum for indigenous organisations from all over Asia to come together, share experiences and discuss future perspectives and strategies. This conference fostered many new contacts, and IWGIA is now cooperating with a number of indigenous organisations in Asia.

IWGIA is very pleased that many of the Asian indigenous people attending the conference have contributed to this issue of *The Indigenous World*. As a follow up to the Thailand conference, AIPP and NEFEN (the Nepal Federation of Nationalities) organised a large conference in Nepal in April 1996. However, the conference had to be cancelled due to intimidation by the Indian and Nepali governments. This was an unfortunate event which shows that indigenous issues are highly explosive in the Asian context.

IWGIA is gradually expanding its network in Africa and in 1996 the Ogoni tragedy brought Africa firmly onto the agenda. The brutal execution of the well-known Ogoni leader, Ken Saro-Wiwa, and eight other Ogoni activists led to worldwide condemnation of the Nigerian military dictatorship. However, concrete action is needed and IWGIA has joined the efforts to assist the Ogoni in their continued struggle. Furthermore, IWGIA provides project

support to indigenous organisations in Southern and Eastern Africa in areas such as organisation building and human rights work.

During the past year IWGIA has also continued its involvement in the UN and the focus for its efforts has been to work for the adoption of the draft Declaration on the Rights of Indigenous Peoples and the establishment of a permanent forum for indigenous peoples. Part II of *The Indigenous World* presents two comprehensive articles on these issues.

In *The Indigenous World* IWGIA has again this year tried to present an overall picture of the latest developments for indigenous peoples all over the world. However, we are well aware that this is an enormous task and that there are areas which we have not been able to include.

This year IWGIA has tried to invite as many indigenous representatives as possible to contribute to *The Indigenous World* - a development which we believe is important and which we would like to continue in years to come.

We hope that the comprehensive information provided in *The Indigenous World* on the global indigenous situation, both the setbacks and the steps forward, will provide a useful tool for the indigenous cause. We hope that indigenous peoples themselves can use the document in their own struggles on the local, national and international levels. And we hope that other NGOs, researchers, etc. can use the material in their work to support the fight of indigenous peoples.

Facts are always subject to interpretation. There is more than one truth and the focus selected depends on the perceptions and interpretations of the various authors. The view points put forward here might be applauded by some and disputed by others but in all cases they put forward extremely important issues for discussion and action.

Contributors

IWGIA would like to extend warm thanks to the following people for having contributed to *The Indigenous World*:

The Arctic

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- *Marianne Lykke Thomsen* has been associated with IWGIA for many years. She has worked for the Inuit Circumpolar Conference and is now working for the Greenland Home Rule Government, the Office of International Relations (*Greenland*).
- *Claus Oreskov*, anthropologist, has been active in the IWGIA Danish National Group for many years. He organised the IWGIA conference held in connection with the UN Social Summit in Copenhagen (*Saami*).
- *Olga Murashko*, anthropologist, active member of the IWGIA Russian National Group (*Russia*).
- *Mette Uldall Jensen*, member of the IWGIA Danish National Group (*the fur issue*).

North America

- *Andreas Knudsen*, student of commercial languages (English and Russian) and free-lance translator. Active in the IWGIA Danish National Group for 4 years and works with North American issues (*Blackfeet, Western Shoshone, Leonard Peltier*).
- *Bernhard Bös*, Cand. Mag. in Ethnography from the J.W. Goethe University in Frankfurt Am Main. Active in the IWGIA Danish National Group (*Lubicon Cree, Apache*).
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Mexico, Central and South America

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- *Marie-Odile Marion*, French anthropologist working at the National School of Anthropology and History in Mexico City (*Mexico*).
- *Estheiman Amaya Solano*, journalist, in charge of the Mayan newspaper, *El Regional* (*Guatemala*).

- *Andrew Gray*, anthropologist and member of the IWGIA Board (*Nicaragua*).
- *Atencio Lopez*, an indigenous Kuna lawyer, director of the Legal Consultation for the Indigenous Peoples of Panama and Secretary of International Relations of the Napguana Association (*Panama*).
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South East Asia

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- *Jannie Lasimbang*, a Kadazan-Dusun from Sabah. Known for her pioneering work in building community organisations and a senior coordinator of the Partners of Community Organisations (PACOS). As a member of the Executive Council of Asia Indigenous Peoples Pact she has been actively contributing towards regional networking of indigenous peoples in Asia (*Malaysia*).
- *Stepanus Djuweng*, a Simpang Dayak from West Kalimantan and Secretary General of the Institute of Dayakology Research and Development (IDRD). Coordinator for Borneo Indigenous People Networking Programme, and Coordinator for Dayak Dynamic Network, a Kalimantan-wide network for indigenous NGOs (*Indonesia*).
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- *Rene Agbayani*, student of anthropology, freelance writer and researcher. Works as a consultant with indigenous peoples' communities, peoples organisations, NGOs, local government units and international development agencies in the Philippines (*The Philippines*).
- *Luingam Luithui*, research scholar and human rights activist, a Tangkhul Naga from Ukhrul, Manipur, India. He is a founder member of the Naga Peoples Movement for Human Rights (NPMHR), has been active in human rights work since 1974, and is currently the Secretary General of the Asia Indigenous Peoples Pact (*Nagaland*).

South Asia

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- *Ratmaker Bhengra*, a lawyer and member of the Jharkandis Organisation for Human Rights which works for autonomy within the Indian state. Works actively to support the cause of indigenous peoples in India, is a legal advisor for the human rights organisation Joha-Ranchi and active in the movement against forced resettlement (*Jharkhand*).
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- *Parshuram Tamang*, is the General Secretary of Nepal Federation of Nationalities (NEFEN). As a social critic and activist he has for more than twenty years worked to promote the cause of indigenous peoples in Nepal. He has written books on the Tamang and Janajati peoples and works as a lecturer at the Tribhuran University, Nepal (*Nepal*).

- *Jumma Peoples Network (JUPNET)*, an organisation established and administered by indigenous Jummas based in various countries of Europe and elsewhere. JUPNET seeks to promote the rights of the indigenous Jummas by dialogue, negotiation and other peaceful means (*Chittagong Hill Tracts*).

Africa

- *Gunnvor Berge*, social anthropologist, Centre for Development and Environment, University of Oslo, Norway (*Mali, Niger*).
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- *Judy Knight*, anthropologist, currently completing research on the Batwa of Rwanda and their indigenous organisations. Based in Britain and is working in collaboration with the Rain Forest Movement. Has also worked with the Twa in Uganda and Burundi as well as other hunting communities in Uganda (*Rwanda*).
- *John Hardbattle*, a Kwe and leader of the indigenous Kwe organisation First Peoples of Kalahari. Has done pioneering work in setting up this indigenous organisation and in doing international networking with other indigenous peoples. Is the Chairman of Ghanzi Craft, a craft centre working to promote the economic situation of the Kwe peoples (*Botswana*).
- *Kxao Moses #Oma*, born in Nyae Nyae and manager of the Nyae Nyae Farmers Cooperative (NNFC) for six years, and *Murray Dawson-Smith*, employed by NNFC for the past 21 months and provides institutional support for NNFC (*Bushmen, Namibia*).
- *Thomas Tvedt*, m.phil in Geography, University of Bergen, Norway. Carried out fieldwork among the Himba people in 1993 and wrote his final thesis on the "Impact of the proposed Epupa

Hydropower Plant on the Himba Society" (*Himba, Namibia*).

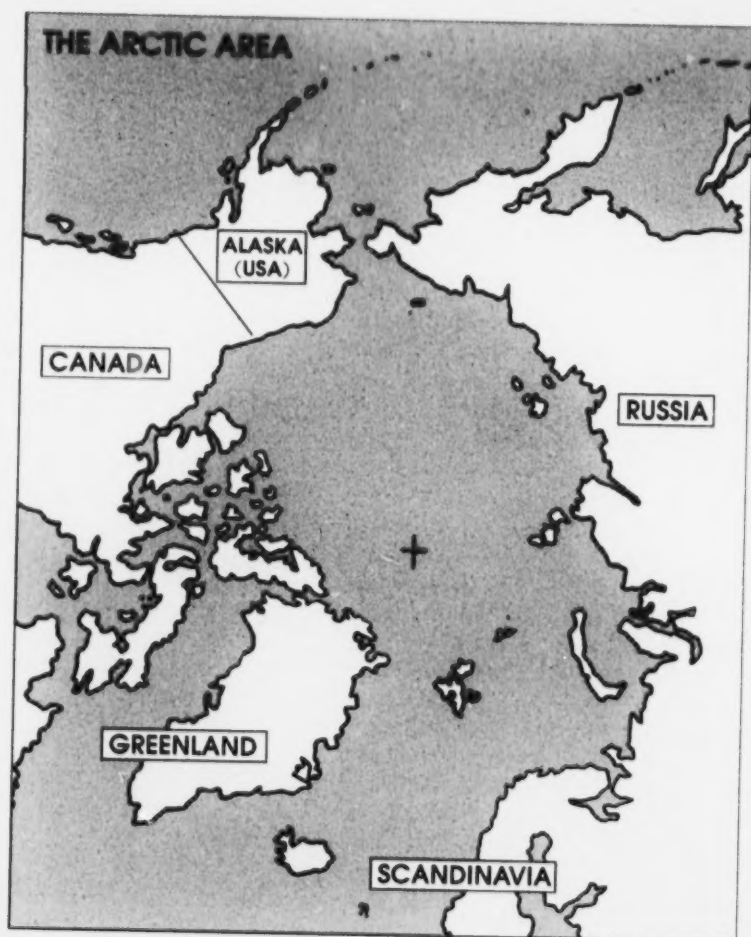
- *L.P. Vorster*, anthropologist, professor at the University of South Africa teaching African customary law. Chairperson of the !XU and Khwe Trust (*South Africa*).

Part II

- *Andrew Gray*, anthropologist, member of the international board of IWGIA.
- *Inger Sjørslev*, anthropologist, director of the international secretariat of IWGIA.

PART I

THE INDIGENOUS WORLD



THE ARCTIC

The 7th general meeting of the Inuit Circumpolar Conference (ICC), which is convened every three years, was held in Nome, Alaska, where *Inuit* delegates from Russia, Alaska (USA), Canada and Greenland met for five days in July 1995. The ICC is an indigenous NGO with consultative status under ECOSOC. It was founded in 1977 with the participation of Inuit from Greenland, Canada and Alaska. During the last meeting the Inuit from Russia finally became full members. Besides the ordinary delegates (18 from each of the four regions) there was a large number of artists from the Arctic regions as well as VIPs and observers.

Among the issues discussed (see IWGIA Newsletter 3/1995) were sovereignty, subsistence, social and health conditions, environmental degradation, international relations, among others. A number of resolutions were suggested and adopted, among these a resolution in support of the creation of the Arctic Council and the inherent right of the Inuit to harvest bowhead whales. The ICC also confirmed its support for the UN Draft Universal Declaration on the Rights of Indigenous Peoples and the establishment of a UN Permanent Forum.

At the ICC general assembly in 1992 Eileen McLean (Alaska) was elected president, but due to other responsibilities she soon gave up her position which was taken over by Caleb Pungowiyi (Alaska). At the 7th ICC general assembly Rosemary Kuptana (Canada) was elected as president for the next three years.

1995 gave new hope for the establishment of an Arctic Council with the Arctic governments as members and the three regional indigenous organisations, the Saami Council, the Inuit Circumpolar Conference and the Association of Indigenous Minorities of the Russian North as permanent observers. The final decision is expected to take place in July 1996 at a meeting in Canada.

In 1995 relocation issues played a prominent role in Greenland as in the Canadian north. All cases raised date back to the 1950s when, during the Cold War, military bases and installations were

installed all over the Arctic, and when sovereignty issues became prominent. These cases (to be dealt with) have revealed how badly the individual and collective rights of the Arctic indigenous peoples have been protected by the states. And to further humiliate those indigenous groups affected, in dealing with this matter, the Canadian and the Danish state have been more concerned about anticipated precedents for other indigenous peoples who have been relocated, than for restoring justice. Neither of the two governments has had the courage to apologize, and thus to heal the wounds of those unfairly treated.

In 1991 the EU decided to prohibit the import of certain fur products if they originate in a country where the leghold trap is still used, or where trapping methods do not meet international standards. The implementation of the ban was to be set in 1995, but now postponed to 1997. The reason is to be found in the problems of implementing the ban because of the lack of a legal basis. Furthermore Canada, USA and Russia have threatened to take legal proceedings against the EU to the World Trade Organisation (WTO) for breaking common trading rules. Indigenous peoples of Canada, Alaska and Russia depend on trapping and they fear that the ban will be a threat to their existence. On the other hand, the EU experiences extensive lobbying from animal welfare organisations who are trying hard to get a ban on all trapping, and if possible on the utilization of any wild animal.

The work in the International Standardisation Organisation (ISO) on the standardisation of trapping has been suspended in September 1995. At the same time the EU, Canada, USA and Russia have set up a governmental working group in order to develop international standards of humane trapping.

EU has also come up with a proposal which is called 'the indigenous exception'. The exception says that the ban does not apply to fur and fur products from animals caught by indigenous peoples. Inuit Tapirissat of Canada (ITC) and Assembly of First Nations, Canada, have pointed out that 'the indigenous exception' will not benefit indigenous peoples. The exception implies the necessity of a complicated labelling system which can be extremely difficult to implement. However, the biggest problem is that the ban will destroy the distribution channels for fur. Without distribution channels the exception is without any meaning. Even though the EU wants to give the impression that the interests of indigenous peo-

ples are taken into account, the ban, with or without exception, will endanger the fur trade and thus the future existence of Arctic indigenous peoples.

About 300,000 Inuit and Indians are directly or indirectly dependent on the fur trade which is an indispensable and inseparable part of their subsistence economy. Furthermore, trapping activities are of great importance to their social and cultural life. Both indigenous and non-indigenous peoples fear that the ban will cause serious social decay.

ITC has expressed it this way: "The effect of the sealskin ban [from 1983] on the Inuit subsistence economy can be linked to the removal of three legs from a chair... the current proposal to ban other fur imports has the potential to remove the final leg."

On the 22 February 1996 Denmark finally ratified the ILO Convention 169. Of other Arctic countries only Norway has ratified this convention which many indigenous peoples consider as being very important to secure their land rights.

ALASKA

Oil potential in the northeastern part of Alaska has split the indigenous peoples of that State into two camps. The opening of the Arctic National Wildlife Refuge (ANWR) has been debated for some years, but a turn was made when the Alaska Federation of Native (AFN) at its annual meeting in October adopted a resolution in support of drilling for oil within the refuge.

The only village within the refuge, Kaktovik, has supported the drilling as has the regional Native corporation which holds subsurface rights to sections of the refuge. Also in strong support has been another regional corporation, Cook Inlet Inc., which owns oilfield service companies interested in the development of the refuge. Fiercely against the drilling are the *Gwich'in* people in the interior, who depend on caribou hunting. The caribous migrate through the lands of the *Gwich'in* on their ways to and from the calving grounds within the wildlife refuge. The *Gwich'in* fear that industrial activities of even a small portion of the refuge will jeopardize the Porcupine caribou herd, which forms the backbone of their livelihood and culture.

The *Inuit* (*Inupiat*) villagers of Kaktovik who, like the *Gwich'in*, depend on caribou for subsistence, have supported drilling within

the refuge considering that one demand is met. This condition is that the village of about 250 people be placed at the helm of a regulatory structure to ensure it will be done safely and in conformance with traditional Inupiat knowledge of local resources and conditions dating back thousands of years. The refuge is their land and the area is dotted with grave sites, camps and other Inupiat landmarks. Having witnessed research teams harassing wildlife, they are sceptical about how well government agencies will monitor industrial development.

The Alaska Federation of Natives decision to take side in this major issue is a substantial departure from the neutrality that usually characterises inter-regional conflicts among Native groups. The support came after a request from Alaska Congressmen and Governor Tony Knowles to bolster their efforts to lift a longstanding ban on drilling in the refuge.

Even though the indigenous peoples of Alaska have rights to some lands (11 per cent) traditionally owned and occupied by them, their fishing and hunting rights are continually being encroached upon. Many Natives have lost commercial fishing rights, which they have been forced to sell when they owed tax or otherwise have been in need, and today most of these permits are owned by non-Natives, many of whom have come north to engage in the profitable salmon fishery.

The many attacks on Native subsistence activities are also serious. In 1995 the two major statewide Native organisations, the Alaska Federation of Natives and the Alaska Inter-Tribal Council closed ranks and called for restoration of aboriginal hunting and fishing rights. The Alaska Native Claims Settlement Act of 1971 extinguished aboriginal land titles and hunting and fishing rights which has left the Alaska Native in a vulnerable position vis-à-vis sports fishermen and others who try to limit the rights of Native peoples.

Another pending issue in Alaska is the question of sovereignty. The federal government recognizes more than 200 Native tribes in Alaska and the tribal councils are being allocated federal funds for various social services and other programmes. These tribes, however, are not recognized by the State, which works through city governments. Most Natives have therefore a tribal council elected by Natives only and a city council elected by all citizens of the village. Some villages have dissolved their city councils within or

against the law and turned the control with city affairs over to the tribal council. Seven villages in the Yukon-Kuskokwim delta region have done so, but the authorities have retaliated by limiting the powers of the tribal council significantly. With no local taxes the tribal councils usually turns to bingo and pull tabs as forms of taxation from which a significant income goes to the tribal councils.

CANADA

In Canada, two issues which both relate back to the first decades after World War II have occupied the minds of many *Inuit* of the Canadian Arctic. In both cases *Inuit* survivors have asked for an apology for infringements committed against them. In one case they have now succeeded, but not in the other.

As so many other indigenous children of the Arctic, *Inuit* boys and girls had to spend years in boarding schools far away from their home communities in the decades after World War II. Many of these boarding schools were run by various Christian denominations and a few years ago complaints of abuse of the children began to emanate in the press. At first very little attention were given to these complaints by those accused, the former students were not taken seriously and no serious apology given to them. But gradually so much evidence was raised that the institution most severely accused had to give in. This happened early in 1996 when the Roman Catholic Bishop, Reynald Rouleau, apologized to former students from the Sir Joseph Bernier federal day school for the sexual, physical and emotional abuse they suffered at the hands of members of the church over 30 years ago. The Bishop made his apology with these words: "I acknowledge and apologize for the harm that you experienced as children in the school and the residence, and for the effects these wounds have had on your lives and the lives of your families and friends". Although all those responsible are now dead, the former students have waited for this unconditional apology for years, in order for them to have a place from which to start the healing.

While former students from the Chesterfield Inlet boarding school were given an unequivocal apology, the same did not happen to those families who, in the early 1950s, were relocated from Quebec and Baffin Island to the High Arctic Islands. Seventeen *Inuit* families were then moved from the communities of Inukjuak

and Pond Inlet to Resolute Bay and Grise Fiord in the High Arctic. The Inuit have asserted that the relocation was done not only to help families in dire need, but first of all to assert Canadian sovereignty of the Arctic Islands. The Inuit have documented that the families were relocated without their full and informed consent, that promises made to them were violated by government officials and some of the Inuit were moved under conditions of severe stress and poor health conditions.

The children of those adults who were relocated have grown up and they now insist they tell their version of the history. For years they have fought the federal Canadian government for compensation and an apology. In March 1996 they finally received compensation, but no apology. The exiles will receive a statement of reconciliation acknowledging their pain and suffering and CAN\$10 million compensation.

The compensation of CAN\$10 million is the result of an agreement made between the government and the Inuit themselves. This is an agreement of reconciliation that recognizes the "hardship, suffering and loss" in the initial years of the relocation because of poor planning and implementation by the government. But it is also said that the government officials "were acting with honourable intentions in what was perceived in the best interests of the Inuit at that time." The Inuit have asserted that they were taken north and dumped on the desolate shores of the North without housing. They say they had to scavenge for food in the dump of a military base and were forced to adjust to the unfamiliarity of non-stop darkness in the winter. Concerning the role played by Inuit in asserting Canadian sovereignty over the Arctic Islands, the reconciliation statement only says that "the relocatees contributed to a Canadian presence in the High Arctic."

The Inuit, many of whom are bitter about the agreed statement, say they are accepting the compromise deal because they want to settle the matter before their aging elders die. Thirty one of the 86 original exiles have already died.

The compensation package includes a Can\$8 million trust fund for the families and Can\$2 million in cash for the 55 living exiles and the descendants of those who died.

The Inuit are still looking for an apology. John Amagoalik says: "I think there was pretty much unanimous agreement that the absence of an apology is a real slap in the face for us and everyone agreed that everyone wants to continue to pursue an apology."

Nunavut and the Quebec Referendum

The work to establish a new territory, Nunavut, in 1999 in which the Inuit will make up about 90 per cent of the population continues. A Nunavut Implementation Commission (NIC) continues the preparation and, as an important step, a decision has been taken about the location of the capital of Nunavut. Following a Nunavut-wide referendum, Iqaluit was chosen as the new capital.

A discussion paper published by the NIC suggested that a gender equality system could be introduced in setting up the Nunavut parliament. The proposal is for the establishment of two-member constituencies, each of which will elect one male and female. So far, no decision has been taken on this proposal.

In April 1995 the residents of Nunavut voted overwhelmingly not to allow the sale of municipal lands. Article 14 of the Nunavut Final Agreement stipulates that between one and two years after the ratification of the land claim agreement (1993) a referendum must be held to determine whether the communities can be allowed to sell municipal lands. All residents, Inuit and non-Inuit took part in the referendum, the result of which was a firm opposition in all Nunavut communities against sale of land.

In 1994, a small group of Inuit hunters from the community Igloolik took a bowhead whale. This was the first time in decades that a bowhead whale was taken in this part of the Arctic, and it was immediately deemed illegal by the authorities. The three hunters, Simeoni Qaunaq, Levi Qaunaq and Esa Kripanik, killed the whale to honour the wishes of a respected elder who said that he wanted to taste bowhead *mattak* (whale skin, an Arctic delicacy) before he died. Meanwhile, the elder has died, but the court case against the three hunters is set for June 1996.

The Quebec referendum on the future of that province ended against independence or sovereignty. While the provincial government wanted to separate from Canada, they would not allow the indigenous peoples of northern Quebec any say of their own future. The indigenous *Inuit* and *Cree* of that province therefore had organised their own referendum in advance of the province-wide voting. Ninety-five per cent of the 8,000 *Quebec Inuit* and ninety-six per cent of the 5,000 *Quebec Cree* voted against a sovereign Quebec. By doing this, the indigenous groups not only denounced an independent Quebec, they also strongly indicated that they want to remain within Canada. The voting furthermore gave new impetus to indigenous demand for self-government.

GREENLAND

Oil and Mineral Resources Development

In 1995, the Greenland Home Rule Government established a Minerals Office in Nuuk, staffed with geologists, lawyers and economists, in order to strengthen Greenland's influence in the administration of mineral resources. The Minerals Office is the result of an agreement between the Danish and Greenland governments for the period 1995-97 regarding a gradual build-up of expertise in Greenland in close cooperation with the Mineral Resources Administration for Greenland. The Geological Survey of Denmark and Greenland (GEUS) and the Danish Energy Agency are all under the Danish Minister for the Environment and Energy.

The Minerals Office, which was officially opened on April 11, 1996 by the Chairman of the Joint (Danish/Greenlandic) Committee for Mineral Resources in Greenland, Premier of Greenland Lars Emil Johansen, now has the capacity to tackle the prime task of transforming the mineral and gas potential of Greenland into an industry of significance for the national economy, which is a stated goal by the Greenland Home Rule Government.

In order to attract mining and oil companies a new strategy, involving changes in the conditions for concessions and taxation combined with international information campaigns, was initiated at the beginning of the 1990s followed by a recent amendment of the Minerals Act by the Danish Parliament allowing for the prolongation of the exploration and exploitation licences for companies operating in Greenland as requested by the Greenland Parliament.

The Joint Committee for Mineral Resources in Greenland is currently negotiating 2 proposals for offshore oil and gas exploration at Fylla Banke off the central west coast of Greenland, where seismic surveys have revealed geological structures indicating the presence of potentially very large quantities of gas.

During the Spring session of the Greenland Parliament two major issues of concern to the Greenland Home Rule Government in relation to the oil and mineral resources industry development were discussed. Namely, environmental protection and employment.

It was stressed by the Premier in his presentation of current and future oil and minerals exploration and exploitation activities that hunting and fishing continues to be the primary livelihood in Greenland and will be protected accordingly by means of strict environmental protection and monitoring efforts. Extensive environmen-

tal assessment and monitoring programmes are carried out by the Danish Environmental Research Institute and plans are under way to expand the capacity and preparedness of the Home Rule Department for the Environment.

With respect to local employment in the minerals and oil industry, the Mineral Office in cooperation with the Ministry for Education are currently undertaking prospector and 'drilling' courses and are planning to offer additional training with partners in Canada.

Thule

In 1995, the circumstances concerning the establishment and presence of the US Air Force's military air base at Pituffik (the Thule Air Base) once again attracted considerable attention from the media and public in both Greenland, Denmark and abroad.

Firstly, the Danish Ministry of Justice released a commission report on the relocation of 27 *Inughuit* families from the community of Uummannaq (Dundas) to Qaanaaq in 1953, to provide additional space for US Air Force installations, in relation to Pituffik established on the basis of the Danish-US defense agreement of 1951 and already occupying a considerable landbase in Inughuit territory. Contrary to the opinion of the local population involved, the Greenland Home Rule Government and independent experts, the Report, which had been under way since 1987, concluded that the relocation should be characterized as voluntary rather than forced.

As early as 1960, the Council of Hunters in Qaanaaq claimed compensation for their economic loss caused by the relocation from the then Ministry of Greenland in Denmark. Unfortunately, all files related to the claim were displaced and never recovered and Inughuit never received any compensation. Thus, in 1985, the Municipality of Avanersuaq (Thule) restated the claim to the Ministry for Greenland, while the former Premier of Greenland Jonathan Motzfeldt, in an attempt to remedy the situation, made the US government sponsor a foundation for the local population, though mainly for environmental protection and clean-up.

Secondly, the Danish government on June 29, 1995 made public that a former Premier of Denmark in 1957, secretly and contrary to the official Danish policy on nuclear weapons, had accepted US placement of nuclear weapons in Greenland. The Danish government later announced that the US in fact had nuclear bombs stored at Pituffik.

Since these first announcements, researchers, politicians and journalists have tabled a wealth of evidence through numerous documents and articles etc., demonstrating the poor handling of the 'Thule Case' by the Danish government.

Thirdly, the Danish Government on July 3, 1995 announced its decision to conduct a hearing on the health aspects resulting from the crash of a nuclear armed B 52 bomber on the ice off Pituffik. The hearing was provoked by the series of revelations of compromising evidence of Danish governments circumvention of its official nuclear policies which choked both the Greenland and Danish politicians and public. The 'Thule workers' (Danes working at the military base) and the Inughuit hunters who had been involved in the clean-up have since blamed the crash and subsequent clean-up for the many health problems that they have suffered and have claimed compensation from the Danish State.

While the hearing committee did not find sufficient evidence of a connection between the many health problems suffered by the Thule Workers and Inughuit hunters and their participation in the clean-up, the Danish government decided to indemnify all those who are able to document their presence and involvement or surviving relatives with 50,000 Danish Kroner (approx. US\$9,000).

The establishment and presence of the US military air base at Pituffik continues to be a sensitive issue. The Danish government has declined to extend a formal apology to the Inughuit and has so far rejected the demand made jointly by the Greenland Home Rule Government and the Municipality of Avanersuaq to establish a civil landing strip at Qaanaaq to make the local population independent of the military air base for travel. The many restrictions and limited capacity for civilians in transit to and from Qaanaaq and other North Greenland communities affect both local transportation and the opportunity for business development, such as tourism industry, for which the area has a great potential, and mineral resources.

There is currently an attempt to find a valid solution to the traffic problems and the isolation of Inughuit from the rest of Greenland and the outside world. The Danish government in cooperation with the Greenland Home Rule Government has now proposed that the US government re-establishes the former Uummannaq (Dundas) community as a civil area for transit passengers. The proposal is to be negotiated in the Permanent Committee, a

body with Danish, Greenlandic, and American membership established to facilitate cooperation between Denmark-Greenland and USA on matters concerning the US presence and operation in Greenland.

What has been achieved in the course of last Summers events is that the Danish government has agreed to a closer and more open dialogue with the Greenlandic authorities on security issues and has granted a seat to the Greenland Home Rule Government in the council of the Danish Foreign Affairs Institute (DUPI), which is currently investigating the Danish nuclear policy between 1945 and 1968.

In addition to this, a permanent committee of government officials from the Danish Ministry of Foreign Affairs and the Greenland Home Rule Government have been assigned to review the defence agreement of 1951 and to study security issues relevant to Greenland from 1968 till today. The committee will also participate in future meetings concerning the NATO/Greenland relations between the Danish Foreign Minister and the Premier of Greenland.

With respect to the relocatees, compensation and a formal apology is still an issue. Partly inspired by their neighbours in the Canadian High Arctic, who recently - as a result of numerous complaints to the Canadian government followed by extensive public hearings - have finally received a compensation of CAN\$10 million - the Inughuit have now formed an association called Higi-taq 53 - 'the ostracized of 53' - and are planning to bring their case against the Danish State before the European Human Rights Court.

RUSSIA

In the course of 1995 none of the federal laws concerning indigenous peoples promised by the Federal Government were enacted. At the Parliament hearing 'On the Ratification of ILO Convention 169' the following decision was taken:

- to take into account the view of the Federation's subject to recommend that the President as a guarantor of the Constitution propose Convention 169 to be ratified by the State Duma of the Federal Assembly of the Russian Federation at the spring session, 1995,

- to bring the entire legislation of the Russian Federation, including that regarding land, natural resources, property, taxation, ecology, among others in conformity with the ILO Convention 169,
- to charge the respective committees of the State Duma with elaborating and proposing for consideration a package of bills of the rights of indigenous minorities of the Russian Federation including those 'On the Legal Status of Indigenous Minorities of Russia', 'On the Traditional Status of Indigenous Minorities' and 'On the Traditional subsistence of Indigenous Minorities of Russia',
- the Russian Federal Government will be charged with the task of developing a set of practical measures to ensure the implementation of the articles of the ILO convention 169, including a ban on sale, purchase, exchange or lease of lands belonging to indigenous peoples.

However, none of the above-mentioned decisions were fulfilled during 1995. The ILO Convention was not proposed for ratification by the State Duma and no work was done to bring the Russian legislation in conformity with the articles of that convention.

The law 'On the Legal Status of Indigenous Minorities of Russia' was twice enacted by the Duma, but vetoed by the President as contrary to the Constitution and to some other laws of the Russian Federation. The law was again vetoed by the President on December 20, 1995 with the explanation that

"according to article 73 of the Russian Federation Constitution the RF subjects beyond the RF competence and authority regarding joint competence areas enjoy the entire state power, hence, the competence of the state power of the RF subjects in protecting the rights of indigenous minorities should be determined by the laws of RF subjects."

However, this seems to contradict other articles of the Russian Constitution, in particular article 69, whereby "

the Russian Federation guarantees the rights of indigenous minorities in conformity with the generally adopted principles and standards of the international law and international treaties, and article 80 whereby the President is the guarantor of the Constitution."

The legislation of the subjects is still being elaborated and their final adoption is related to the adoption of the Federal Law.

One of the central articles of the Federal Law 'On the Legal Status of the Indigenous Minorities of Russia' was also rejected as non-constitutional. In the message of the President of December 20, paragraph 1 of article 4 and paragraph 1 of article 8 are specially noteworthy. These guarantee the assigning to indigenous peoples of their traditional territories, and guarantee that ethnic villages and ethnic territories can be established. Article 27 envisages the establishment of subsistence territories to communities, enterprises and organisations whose activities are associated with traditional economic activities of indigenous peoples. However, this statement appears to be non-constitutional because only plots of land can be assigned.

The attitude of the federal and regional administration, which have hampered the enactment of laws of the rights of indigenous peoples for several years, appears to indicate their unwillingness to give and to guarantee to indigenous minorities their rights, primarily their rights to own their own resources.

Poor Legislation

The lack of laws concerning the rights of indigenous peoples has increased their deprivation and they are rapidly losing their lands and resources.

In the Yamal-Nenets and Khanty-Manisk Autonomous Areas in Western Siberia, the lands which were handed over to the indigenous peoples in 1991 have again been taken away from them. Some lands have been reclaimed by collectives and state farms and are now being used for industrial activities including oil and gas constructions. In other cases indigenous peoples have been forced into long-term lease of their lands. Such agreements have been concluded with the Russian Joint Stock Company Gazprom and ASCO. In these cases, the absence of firm legislation has made it difficult to brand these deals as illegal.

In the Far Eastern Region where the lands were never handed over to the indigenous peoples, the administration claimed that the hard economic conditions made it necessary to grant concessions to certain species of fish and marine mammals to Russian and foreign companies.

In Kamchatka, the result has been that the fishing quotas allocated to each indigenous person dropped from 200 kg to 30 kg in 1995. Taking into account that indigenous peoples are normally not

provided with essential foods, not even bread, it is understandable that Kamchatka's indigenous peoples are starving.

The local administrations usually claim that, on the one hand, they are unaware of the conditions in which the indigenous peoples now live, but, on the other hand, they admit that they are bound by various agreements with companies to which they have granted large quotas of fish and other resources. They also claim that there are no federal laws concerning the rights of indigenous peoples, that the central administration does not allocate funds for indigenous peoples and that the administration has to provide for the entire population in which the indigenous peoples often only make up a small percentage (10 per cent in Kamchatka).

The responsible federal institution, the Ministry for National and Regional Policy, is usually represented by one or two low-ranking officials and they are devoid of finances and depend entirely on the local administration, which provides them with offices, apartments, equipment and other services. All in all, they are unable to control the local authorities.

The indigenous peoples of the Sakha Republic (Yakutia) are somewhat better off. Laws have been enacted on the rights of the indigenous peoples and over one hundred indigenous communities have been allotted lands and other resources. But the programmes for developing these communities are barely funded and hence some communities have disintegrated.

At the reindeer herder congress that was held in Moscow in November, members of communities in the Sakha Republic and other regions complained that reindeer herding camps and villagers are not being provided with consumer goods. Some delegates called upon the restoration of the state-farm and collective-farm system which were said to have made better provision for them. The congress was organised by the Ministry of Agriculture and the Ministry of Nationalities as an annual Moscow meeting devoted to the problems of indigenous peoples. The officials from these ministries have managed to monopolize the allocation of funds and to control projects which, when managed from Moscow, are unable to improve the situation of the reindeer herders.

The general demographic condition of the indigenous peoples of the North and Far East continues to deteriorate. Alcohol abuse and mortality caused by accidents are on the increase while the birth-rate decreases. Under the severe conditions of the North, doctors

and teachers leave the indigenous villages, only adding to the deprivation. Under these conditions spontaneous revitalisation activities are needed in support of traditional cultural activities, recreation of clan-based communities, restoration of ancient forms of distribution and mutual assistance, re-use of traditional medicine as well as teaching the children traditional subsistence activities.

Saami People

After a long period of social and cultural marginalisation and stigmatization of the *Saami* people on the Kola Peninsula, a process of reconstruction of a specific Saami socio-cultural way of life has slowly begun. As in Scandinavia, there are now radio programmes in Saami language in Russia. A few schoolbooks in Saami language have been published and in Lovozero they teach in Saami language in the boarding school. Many Saami collections of poems have been published and three new Saami dance and song groups have emerged. Handicraft that was almost wiped out has now experienced a great renaissance. In 1989 the *Associacija Kolsikh Saamov* (Association of the Kola Saami) was formed and since then there have been more and more new Saami unions, for example: Saami Nursh (a youth organisation) and the Kola Saami craft workers and artist organisation. The Kola Saami are members of both the Saami Council (which is represented by Saami people in Scandinavia and Russia) and the Association of Small Indigenous People in the North, Siberia and the Far East. The Saami people on Kola want to establish a democratic Saami parliament like that in the Scandinavian countries. There has, however, been very strong resistance against these ideas from the governor of the Murmansk region, Evgenij Komaraov.

The economic situation in the area is disastrous. The unemployment rate is more than 60 per cent and housing conditions are very bad. Most of the year there is no heating of the houses in Lovozero where most of the Saami people live.

The privatisation of the reindeer-herding is very slow. The question is do the Saami people want privatisation like that in the west? Many Saami have said that they want private collectively-owned reindeer-herding farms rather than the state owned ones. One of the Kola peninsula 'state-farms', Tundra, has been privatised. In Loparskaja some Saami families have started private farming with a few hundred reindeer each.



Leif Hallonen from the Saami Council together with two Greenlandic girls in Sisimiut, Greenland. Photo: Claus Oreskov

Lately poaching has been a direct threat to reindeer-herding on Kola, especially the reindeer from Loparskaja. Of a total stock of 5,000 reindeer, about 1,000 have been stolen by poachers. According to the reindeer herders, the poachers are operating from modern speedboats, helicopters or tracked vehicles. They also state that a large number of the poachers come from the Russian army. They wear uniforms and are armed with kalashnikoffs which they fire uncontrolledly into the reindeer herds. Many herdsmen have been fired on when they have tried to defend their reindeer.

A positive development is that a Swedish company has entered the market on Kola. It has established a slaughterhouse in Lovozero and is exporting reindeer meat to Sweden. Formerly, much of the meat rotted because the infra-structure had broken down. A new problem, however, is that now there is a lack of meat in Lovozero because the majority of the reindeer meat is exported to Sweden. It must be noted that reindeer meat has always been a part of the everyday necessities on Kola, while in Sweden reindeer meat (for non reindeer-herding Saami) is an exclusive luxury article.

SÁPMÍ

Norway

The Saami Natural-League is warning the authorities against the increasing fishing taking place from trawlers in the inlets. The shrimp trawlers' activities is a threat to different species of fish in the inlets, because shrimps are the main food for the fish and therefore necessary in order to sustain the varied fish population.

In Tysfjord trawlers are fishing herring. The local coast *Saami* population cannot compete with the big trawlers. The coastal Saami have also been prevented from using another important marine resource, namely the lump-sucker. The lump-suckers' migration towards the coast is cut off by the trawlers which lie directly off the coast and harvest all the fish at the expense of the Saami. The Directorate of Fishing has proposed to use two more inlets for shrimp trawler fishing: Porsangerfjord and Tanafjord. This has made the Union of Settled Saami people protest. The population along Porsangerfjord and Tanafjord are coastal Saami. Fishing in the inlets is very important to them and at the same time it is an important part of the coastal Saami culture.

In Lakselvdalen there are also problems concerning the rights of the coastal Saami people. Since olden times, the right to salmon fishing has belonged to the Saami/Kvanske population (the Kvan-ske are Finnish speaking immigrants in Finmark). Through dubious cases of land exchange in 1950s and 1960s, the state acquired private land rights in Lakselvdalen at the expense of the traditional population who had the rights to the land. The State Forest in Finmark today claims to own about half of the fishing hamlets in Lakselven (Salmon river). The landowners union in Lakselv have for the last 45 years managed the fishing in the fjord. The landowners have always perceived the tenancy of the state's fishing rights as a formal continuation of the indigenous peoples' traditional rights to management of Lakselv. However, last year there was a disagreement between the State Forest and the landowners about the rights to management. The State Forest claims to have the right to fix the prices for fishing permits for the fjord. This cannot be accepted by the landowners. The State Forest in Finmark is now threatening to hand over the management of the fjord to the Lakselv hunting and fishing union. The landowners union has applied to the Saami rights committee, so that they in this way can

have their traditional rights protected, including the right to management of the Lakselv.

In November 1995, the Saami parliament produced a proposal for a programme of action for the Saami coast and fiord areas in the period 1997-2001. For the Saami parliament one of the main purposes of the proposal is to improve and continue Saami identity, language and culture. Another key purpose is to strengthen Saami society, through a stable settlement and a diversified trade. The third main purpose is to strengthen and improve Saami means of living, and their economic, cultural and political rights. These will be obtained through five strategic fields: agriculture, fishing, mixed economy, Saami culture house and the improvement of the Saami language.

A new law for reindeer-herding has been agreed. The most important changes in the new law is doing away with years of injustice against the Saami working with reindeer-herding. Previously, when there was a disagreement about the right to a grazing area, it was the reindeer owner who had to prove that they had the right to a grazing area. If today there is a disagreement between farmers/land owners and reindeer owners about the use of a grazing place, it is now the farmer who has to prove that the reindeer owner has no right to grazing in the area. Before the new reindeer herding law there was a long debate in the medias and among the politicians. The landowners complained about the loss of their rights to the Saami. In this connection it is important to remember that the Saami who work with reindeer herding had to give up large grazing areas to the farmers in 1894, when there was a royal resolution which established the reindeer herding grazing areas into districts. The Saami working with reindeer herding in Hedmark and Sør-trøndelag were driven out of a large area which they had used for a very long time. The new reindeer herding law does not make it possible for the Saami reindeer owners to expand their grazing areas, which they have occupied since the resolution concerning districts from 1894. But they will be able to keep the reduced areas which they were given at that time.

The land owners will keep the area that they have now and they will be offered compensation for verifiable loses in cases of illegal grazing in their areas. The vice-president of the Saami parliament, Ing-Lill Pavall, said to the Saami newspaper *Ságat*: "I am happy that the Norwegian parliament at last has taken the responsibility in

relation to the obligations that Norway has towards the Saami people in general and especially for the reindeer herding as trade". Ing-Lill Pavall stresses that the new law must be used to seek a dialogue between conflicting interests and not to produce new conflict.

Sweden

In August 1995, a walk for Saami rights began in Karesuando. On the 17 August the walkers arrived in Stockholm where they delivered a letter to the Swedish government. Saami people from many Saami villages, Saami unions and different trades participated in the walk. In the letter to the government the participants in the walk demanded that the Saami people should have the right to self-government as indigenous peoples as guaranteed in the constitution; the recognition of the Saami language as an official language; that Sweden ratifies ILO Convention 169; and that the Saami people administer the hunting and fishing rights. The representatives on the walk pointed out that they wanted a political solution to the issues rather than a legal settlement - a political solution that can settle the administration of land and water in the Saami areas without necessarily making it clear that it is the Saami people or the state who own the areas.

The Saami people continue their protest against the state taking over the administration of small game hunting. The matter has been taken to the European court in Strassburg (see *The Indigenous World* 1994-95:44). Since then the Saami villages in Jämtlands county decided to prohibit hunting of small game on their land. "We do not have the legal power today to issue such a prohibition" says Olof Johansson, the spokesman of the Saami villages in Jämtland, ... "but we have the moral power to do it". The Saami people hope that the hunters will respect 'their moral power' and boycott the hunt in the Saami areas.

The Swedish parliament has decided that the Saami parliament should take over the administration of payment for carnivore damages on the reindeer stock, from the 1st January 1996. Ingvar Åhrén, spokesman of the Saami parliament, pointed to some important problems concerning the new system. The amount of compensation, 14 million Swedish kroner a year, is based on the number of reported reindeer killed by carnivores. Åhrén says that the compensation must be re-measured on the number of carnivores. The idea is to pay compensation to the reindeer owner whether or

not the killed reindeer are located. If the Swedish government maintains 14 million kroner basis for compensation then they must reduce the present carnivore stock to 1/3, says Ingvar Åhrén.

On the 21st February 1996 a district court ruled on the Saami right to winter grazing in Härje-valley. The verdict stated that the Saami do not have the traditional rights to reindeer grazing beyond the treeline. This means that two Saami villages, which have all their winter grazing in Härjevalley municipality, will lose all their traditional wintergrazing. Two more Saami villages which also have winter grazing outside the municipality will lose half of their necessary winter grazing. The verdict is a temporarily end to a very long conflict between the reindeer-herding Saami on one side and Swedish farmers and different Swedish forest companies on the other.

Finland

As a result of a Saami initiative, the law (L. 17.7.1995/973) on Saami cultural autonomy as indigenous people in the Saami homeland (which does not concern rights to land and water) was established. Most of the 7,000 Saami people in Finland live in the Saami Homeland in the northern part of Finland. In relation to this, a new representative organization for the Saami people was established (L. 17.7.1995/974), the new Saami Parliament (Sámediggi). The first elections to the new Saami Parliament was in autumn 1995 and Pekka Aikio was chosen as the first president. The new Parliament will take over the different functions of the former Saami parliament.

The law for the new Saami Parliament and cultural autonomy may become a boomerang, turn against the Saami people and oust them from their own representative organ. At the same time as the adoption of the Saami parliament law the Finnish parliament changed the existing Saami criterion so that anyone who can identify a Saami among their forefathers can define themselves as Saami and thereby have the right to vote and the possibility to make nominations in the new Saami parliament. Previously, the criterion of being Saami was that at least one parent or grandparent must have had Saami language as their main language and this gave the right to vote for the Saami parliament. The new 'blood criterion' for being Saami makes it possible for a large number of people who are not 'ethnic' (cultural) Saami to vote for the new Saami parliament. Many individuals, far from the present Saami areas who are ethni-

cally 'Finnish' may be able to prove that they have Saami forefathers. Ethnic Saami fear what may happen if these potential 'new Saami people' acquire influence in the new Saami parliament.

The law of Saami cultural autonomy has provoked a disgraceful persecution of the Saami people in the Finnish press. The press has one-sidedly supported parts of the population who are anti-Saami. In the northern Finnish areas many Saami people have been exposed to violent threats.

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1. *Lubicon*
2. *Innu*
3. *Blackfeet*
4. *Shoshone*
5. *Apache*

NORTH AMERICA

CANADA

Lubicon Cree Nation

In Northern Alberta the situation of the small *Lubicon* Indian band is still dramatic: While old threats, such as Daishowa Paper Co. clearcut-logging and UNOCAL sour gas plant operation linger on, the further split-up of the Lubicon Nation and renouncement of the 1988 Grimshaw Accord by the province of Alberta are imminent (see also IWGIA reports since 1984 in *Indigenous Affairs*, latest: No.2 1995; *Indigenous World*, latest: 1994/95).

The Lubicon Lake Cree, numbering about 500 people in 1988, have their traditional (hunting) territory of 4,000 square miles east of the Peace River and north of Lesser Slave Lake, their homes around Lubicon Lake, where they claim a 95 square mile reserve. Since they never became part of Treaty 8, they still retain aboriginal land title to their traditional lands.

As to the Daishowa - Friends of the Lubicon (FOL) controversy, the paper company Daishowa had in January 1995 filed a 5 million dollar law suit against FOL, accusing them of 'illegal boycott activities' and of having done 'irreparable harm' to the company. The Daishowa injunction, stopping FOL boycott for three months, was, surprisingly enough, not granted by the Ontario Provincial Court. Instead, on May 19th 1995 Judge Frances Kitley ruled that secondary picketing, where Lubicon supporters maintain information pickets outside stores that sell Daishowa products or talking to customers is not illegal. On the other hand, the friends of the Lubicon were instructed not to use the term 'genocide.' The Lubicon Lake Indian Nation reacted to the positive court decision in a media notice:

"We hope Daishowa gets the message that they can't use the Canadian courts to suppress criticism of their actions in Canada. We also hope that Daishowa will make further boycott activity unnecessary by issuing a clear, public and unequivocal commit-

ment not to cut or buy timber from unceded Lubicon territory until there's a settlement of Lubicon land rights and a timber harvesting agreement negotiated with the Lubicon people which respects our wildlife and environmental concerns."

On Daishowa appeal however, the Ontario Divisional Court ruled, in January 1996, the Friends of the Lubicons' boycott illegal, forcing a temporary halt to the boycott until Daishowa's case seeking a permanent injunction can be heard. The Court found that the Friends' primary intent in boycotting Daishowa was to cause economic damage to the company, and not to support the Lubicon Nation. "This decision seriously jeopardizes freedom of expression," said an FOL lawyer.

Last fall, the Lubicon Indians again feared that the Daishowa Paper Co. might start cutting trees on their territory as they noticed renewed road construction. In the answer to a concerned letter by IWGIA on the matter, Daishowa-Marubeni International Ltd. assured in December 1995, that this was "not new construction but is instead modifications and improvements to a temporary winter access route that was constructed for the logging season last year." DMI had "personally consulted with the Lubicons," who had "not demanded that DMI stop this work." On the contrary, in a reply to a Daishowa subsidiary from November 1995, Lubicon chief Ominayak made it clear that "while we appreciate the effort to keep us informed of your ... operations, we would appreciate even more Daishowa respecting our March, 1988 agreement to simply stay out of the Lubicon territory until there's a settlement of Lubicon land rights..." "Failing that, we again ask with respect to proposed widening of the existing access route.....that Brewster (Construction Ltd.) ...consult with us in advance about any proposed work; agree to respect our wildlife and environmental concerns" and "agree to consider Lubicons for any resulting employment..."

Concerning the UNOCAL sour gas plant, less than two miles from the proposed Lubicon reserve that went into operation in mid-April 1995, the Catholic order of the School Sisters of St. Francis, a Lubicon ally and UNOCAL shareholder, did succeed in getting a resolution on the agenda at the Annual Shareholders Meeting in Houston on 22 May. It calls for a full report on the sour gas refinery, including 'the likely consequences' of operation. According to chief Bernard Ominayak, the plant:



Lubicon village, Little Buffalo. Photo: Gérard Pleyner

"poses a grave health risk. It processes hydrogen sulphide and sulphur dioxide, chemicals associated with respiratory and skin disease and several cancers. We have asked Unocal to shut down or move the plant about 12 miles to the south where it would no longer be directly upwind from our reserve site. Unocal has refused...The majority of Unocal's retail outlets are the Union 76 gas stations...We ask Californians to buy their gas from someone other than Union 76..."

In summer, 1995, a news conference was held to announce the California boycott of Union 76 and Unocal, in support of the Lubicon Cree Indian Nation.

In December 1995, a report on environmental damage caused by oil and gas development in Alberta by the Alberta Environmental Centre, as requested of the Alberta Cattle Commission, became known. The draft summary states that

"polluted soils and contaminated groundwater are identified at many of about 13,000 battery sites.... Cattle have died, been injured, and suffered reproductive and growth problems...Sour gas poisoning has occurred in cattle exposed to gas well emissions."

With over 400 oil wells within a 22 km radius of their community, and many more throughout their traditional territory, the Lubicon Indians at a UNOCAL plant hearing last fall doubted that many cattle in Alberta experienced the same concentration of oil industry pollutants faced by Lubicon children. On December 21st another Lubicon baby died of acute upper respiratory distress. The original full report approved by the Cattle Commission is being suppressed by the Alberta Provincial government as "flawed" and because "if it gets out the Japanese won't buy Alberta beef."

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The Innu of Nitassinan (Labrador)

In last year's edition of *The Indigenous World* reference was made to the mineral explorations in Northern Labrador. At the moment, the gross value of the deposits of nickel, copper and cobalt found amounts to around 20 billion Canadian dollars. Since the last issue of *The Indigenous World* mining related activities have exploded. Today there are more than 280,000 claims staked in Labrador by 170 public companies and individuals. More than 40 companies have active drilling programs in an area covering almost the whole *Mushuau Innu* and *Inuit* territory. This frenzied exploration activity is taking place without the awareness, consent or consultation of either Inuit nor the Innu.

At an Aboriginal People and Mining Conference in November 1995, Peter Penashue, President of the Innu Nation, made it clear that:

"Innu have never recognized the jurisdictions that now claim us. We have never signed a treaty, nor ceded a square inch of our land. In the past these things were not necessary, as it was possible for Innu and Akenishau people (White people) to share the land and its resources. But today, we are being forced to deal with governments, companies and individuals who are trying to push us aside in their rush to claim this land as their own for industrial development."

Comparing the 'land claims' of the Innu with the claims which the mining companies are making in Innu territory, Penashue made some important points which are pertinent to the 'land claims' of all indigenous peoples:

" 'Claim' seems to be an important word right now. I'd like to talk about what claims mean to Innu people. We have spent years in so-called 'land claims' negotiations. I use the word 'claim' here unwillingly, because Innu people are not claiming anything. If anything, it is Canada and Newfoundland who are 'claiming' land from aboriginal people. Our experience with the 'land claims process' has left us with the impression that it is little more than a public relations exercise for government, a way to satisfy the public conscience. I say this with regret, because when we entered the process we hoped things were changing. But it is hard to maintain hope while we sit at the table watching Newfoundland and Canada give away our land and our future.

We have also learned that governments make a clear distinction between aboriginal 'claims' and the claims of mining companies. Since last November, more than 250,000 mineral claims (as of Nov. 1995) have been staked in Labrador. Many of these claims are on Innu lands. But these mineral claims are taken more seriously and are given more consideration by the Newfoundland government than the Innu claims have ever had.

For a company to stake a claim, all it takes is a short visit to the Mineral Lands in St. John's to draw a few lines on a map. This guarantees government recognition for mineral rights. When Sango Bay was staked, the site chosen by the community of Davis Inlet for relocation, we were told that the decision was irreversible. Company's mineral claims are obviously more important than our rights. For Innu to have their rights recognized, we must spend years and hundreds of thousands of dollars completing detailed land use and occupancy studies which are then submitted to governments for 'consideration'. We must wait for governments to decide to negotiate with us, a process that can take years. We submitted our original land use and occupancy studies in 1977. We have now been at the table for 5 years, and we have only been able to agree to a list of items for discussion."

It is important to note that, according to the governments of Newfoundland and Canada, the claims of the mining companies consti-

tute 'third party interests' at the table where the Innu Nation shall negotiate their land rights. This means that these interests will be 'protected' in negotiations with the Innu Nation. In addition, if they are actively explored, there are numerous direct and severe impacts on Innu rights and the environment before any settlement is reached.

The handling of the mining activities taking place in Labrador is a repetition of all the decisions and actions by federal and provincial governments which MacRae criticises in his Human Rights report on Davis Inlet (MacRae 1993). In his report MacRae points to the fiduciary responsibilities which the government of Canada has neglected, and with dramatic negative consequences for the Innu; consequences which are reflected in an alarming morbidity pattern and suicide rate (see Rich 1994). Once again the rights and interests of the Innu are ignored.

According to a prevalent view held by Euro-Canadians in Southern Canada, the Innu and the Inuit of Labrador should no longer be regarded as subsistence hunters and fishers. Wildlife harvesting is regarded as an outdated way of making a living. However, the fact is that for the indigenous peoples of Labrador subsistence hunting and fishing continues to be of crucial significance, and will remain so even if some indigenous persons should be employed by the mining companies. This is the case for a number of reasons: economically they are tied only marginally to the market since there is a scarcity of products which can bring cash. No less important is that wildlife harvesting is crucial in their management of social relations and identity production, and plays a critical role in their culture.

"Innu people continue to depend on the land for food, well-being, and spiritual and cultural values. When our elders talk about 'protecting the land', it means much more than 'environmental protection'. To us, the land is still the touchstone of our identity. It is our history and our future" (Peter Penashue, *op. cit.*).

Although a number of Inuit persons are looking to possible future economic benefits from the mining industry, both the Labrador Inuit Association and the Innu Nation react strongly to the way their rights and interests are ignored by both government and companies. This has led to cooperation between the two indigenous organizations.

While the mining activities are stepped up with tremendous speed, the low level flying continues unabated. An agreement be-

tween Canada and NATO partners to continue the flights was signed in February 1996. This allows up to 18,000 military flights annually over Innu lands over the next 10 years. In an effort to dissuade NATO countries from renewing the agreement, Innu supporters staged a dramatic civil disobedience action at the British and Dutch consulates last November.

Nine of the Innu supporters who were charged with trespassing during the protest have been ruled innocent in an important court decision which declares that extreme actions are justified in order to prevent further destruction to the Innu by low-level military flights over their lands. "I am prepared to hold that the defendants broke the letter of the law by non-compliance to prevent a greater evil, that is, to prevent the destruction of the Innu people and their basic human rights," said Justice of the Peace Robert Phillips, in making his ruling yesterday.

Over three days of moving testimony before a full to overflowing court, evidence was given of the environmental destruction caused by low-level military flight training over Innu lands in Labrador, and of the cultural assimilation and systemic discrimination faced by the Innu and their fierce resistance to cultural genocide.

Innu witnesses at the trial testified to the grave threat caused to their communities' health, culture, and land by the low-level flights as well as by the more recent development of the proposed Voisey's Bay nickel mine on their traditional territories. After hearing evidence from the nine defendants as well as numerous experts witnesses, including Innu Nation President Peter Penashue, former Member of Parliament Dan Heap, economist Mel Watkins, legal expert John Olthuis and others, the presiding Justice of the Peace ruled that the November civil disobedience action was justified given the grave and immediate threat to the Innu.

Defense lawyer Peter Rosenthal said that the decision clears the way for similar protests, an assessment affirmed by defendant Carolyn Langdon, who maintains,

"This is a very important ruling for the Innu, but also for the many of us who work for justice. Here is a positive ruling that others can use in their defense, for example, when resisting in this way to the Harris government in Ontario and its policies which critically harm vulnerable people."

Defendant Lorraine Land, also one of the nine acquitted by the judge, says

"I am ecstatic about this decision. We intend to ask the Canadian and NATO governments what they will do, now that the courts have ruled that the risk these flights cause to the Innu is imminent and Canadians are justified in taking extreme steps such as civil disobedience in order to stop them."

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UNITED STATES

Blackfeet

The situation of the *Blackfeet* speaking community of Montana/USA is still unsolved. Though the US government prolonged the drilling stop once more until June 30, 1996, the Chevron group, USA, and Petrofina Belgium, have not given up plans to drill for oil in the Badger-Two Medicine area. The area is part of the traditional land of the Blackfeet nation, especially its *Pikuna* tribe, dotted with many sacred places. Furthermore, Badger-Two Medicine is one of the last wildernesses in the USA outside Alaska and is a retreat for many threatened animals and plants. The background for the efforts of the oil companies to get access to the area where the chance of finding oil is at only 0.5 per cent, is to create precedent with the future aim of opening up Alaska's great oil reservoirs, which lie on indigenous territory, for economic exploitation.

Both the Blackfeet community and environmentalists have promoted a bill which would protect the Badger-Two Medicine area from exploitation. But after the mid-term election in 1994 there are no senators or representatives left who wish to support legal actions which would protect the environment and secure America's First Nations' traditional rights. Therefore, the Blackfeet of Montana made many efforts to strengthen their community last year. In June 1995, about 100 elders met in Montana and decided to re-found the confederacy which consists of the Northern and Southern *Pikuna* (Alberta/Canada and Montana/USA), the *Siksika* and *Kaina* (Alberta). Once a year, they are going to hold a common

meeting as the Blackfeet did before they were colonized. Furthermore, every tribe will appoint contact persons which meet between the annual meetings and prepare them. This Elder Council shall advise the Blackfeet Confederacy on large areas as politics, culture, religion and economy. Interpretation of the old treaties between the Blackfeet Confederacy on one side and Canada and the USA on the other side and protection of the holy places are very important aspects of these consultations. This is probably the most important result of the cultural revival of the whole Blackfeet Nation. The main political aim is to re-negotiate the Treaty of 1895 in order to achieve consideration of the Blackfoot Confederacy's interest, fair settlement and peace. Furthermore, an official apology for the Massacre of Manias River in 1870 when 173 Blackfeet were killed by the US Cavalry is an important demand for the Blackfeet.

The establishment of the Elder Council should prevent the Tribal Council of Montana's Blackfeet-speaking community from selling the tribe's properties and rights too cheaply. For example, the Tribal Council has given the State of Montana the right to police the reservation and gave a non-Indian contractor the right to build the new Bureau of Indian Affairs (BIA) building. Instead of the Blackfeet tribe owning this building and leasing it to the BIA, now it will be owned by the contractor. The net loss for the Blackfeet amounts to \$15 million over the next 20-25 years.

Western Shoshone

The situation of the *Western Shoshone* upon whose traditional territory the Nevada Test Site (NTS) for nuclear weapons is situated, has not improved recently (see also *Indigenous Affairs* 3/95). On the contrary, the US government announced two nuclear tests in June 1996 although the French tests were met with a very negative reaction the world around. Furthermore, the Western Shoshone National Council passed a resolution on December, 2 1995 designating their whole traditional territory a nuclear free zone. In a letter to President Bill Clinton, Chief Raymond D. Yowell denounced the proposed nuclear tests as blatant and direct violations of the Treaty of Ruby Valley of 1863 in both its spirit and terms. Chief Yowell stated in his letter to the President that

"... The continued actions of the US which deliberately conflict with the principles and interests of the Western Shoshone Government through the development, testing or promotion of our terri-

tory for US nuclear activities can only be considered an act of genocide. And thus an act of savagery which surpasses that of the past and must be vehemently condemned as horrendous. ...".

Furthermore, Chief Yowell demanded fair and open discussion of various unsolved problems such as information on the effects of the hundreds of nuclear tests from the 1950s until the 1990s, analysis of cumulative radiological impacts at the NTS, environmental restoration and waste management, monitoring and measurement plans, compensation and mitigation for victims of nuclear tests and waste management, employment and protection for historical and prehistorical archeological sites, etc. It was absolutely necessary to ask the President these questions because of the consequent ignorance of the BIA and its refusal to enter into constructive negotiations.

In November 1995, a new problem arose for the Western Shoshone. Lander County proposed the construction of a recreational dam and park at Rock Creek (Bah-tza-gohm-bah). The Western Shoshone have conducted important religious and spiritually significant ceremonies at Rock Creek for thousands of years. They continue to hold religious gatherings there to this day. Therefore, the area qualifies for inclusion in, and protection by, the National Register of Historic Places and the American Indian Religious Freedom Act. Furthermore, Shoshone burial sites are located here.

But it is not out of concern for their constituents' 'recreational opportunities' that Congressional members express concern for the Rock Creek project. It is to bolster the expansions and profitability of the multinational gold machines that drive both the Congressionals and Lander County (see *Indigenous Affairs* 1994/95). American Barrick and Newmont Gold, both transnationally owned and operating, have been expanding their open pit, cyanide heapleach gold mine facilities approximately forty miles east of Rock Creek. Both mines are dewatering, meaning they pump water from the aquifer that emerges at the bottom of open pits hundreds of feet deep. Newmont and Barrick have been dumping the pumped water in the TS Ranch reservoir, owned by Newmont. This reservoir is now at over-capacity. Under all the weight and pressure, the reservoir has developed a small fissure that leaks water underground, causing a number of downstream seeps and springs to emerge. Faced with permit violations, Newmont attempted to repair the crack, only to be met with a road blockade of Barrick's haul trucks. Filling in the fissure meant the curtailment of dewatering activities

until another location is found that can accept the discharged water. The two mines sought arbitration. The State Engineer, Mike Turnipseed, has recommended and applied for a permit to allow the mines to dump 60,000 to 70,000 gallons per minute into Rock Creek! This water is high in arsenic and meets only agricultural standards. Ordinarily this would overwhelm the Creek, but with the Reservoir, and the County's need for water flow and water rights, the State Engineer's suggestion is coincidentally timely; with the permit in progress, a union between the mines, the state and the county has jointly birthed and sealed the Rock Creek dam and reservoir project.

The US Bureau of Land Management continues its attempts to break the Dann family. The Danns, along with other Shoshone people in the Great Basin, have been in controversial litigation challenging federal and state land claims. This struggle has stretched over 20 years of legal battles. A standing camp of Shoshone and supporters remains year round to protect the land, wildlife, and people. In 1995, the Bureau of Land Management saw a chance to confront Tim Dann with a new dubious accusation. July 20 - 23, 1995 a fire raged a quarter of a mile from the Dann Ranch. Tim Dann along with the Western Shoshone Defense Project and other locals attempted to extinguish unnecessary backfires set by the Bureau of Land Management. Tim Dann was charged with impeding an officer. The Court has not decided the case.

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Apache

Since 1989 the *San Carlos Apache* and American environmentalists have been fighting the Mount Graham International Observatory (MGIO), a telescope station on top of sacred Apache mountain 'Dzil nchaa si an'. It was illegally taken out of the San Carlos reservation and placed under the jurisdiction of the United States Forest Service (USFS) in 1873. Mount Graham is one of four holy mountains of the Apache that are inhabited by the 'Ga'an' ghosts. It is focal point of religious songs and ceremonies as well as Apache identity. Medicinemen are still gathering herbs and water for healing practices from the top region, where there are also numerous cult and burial sites. Today, huge concrete observatory buildings and metal telescopes (obstructive to prayers) block Mt. Grahams top area.

To environmentalists it is an ecological refuge of ice-age vegetation - among other things, the largest boreal forest in the US Southwest - and unique fauna such as black bear and red squirrel.

Despite the protests, two smaller telescopes, the VATT Vatican observatory and that of the German Max-Planck Society (MPG) have already been built. Now the Apache Survival Coalition (ASC) under the leadership of 77-year old Ola Cassadora Davis and a coalition of environmental organizations are fighting for the relocation of the telescopes and to prevent the construction of the much larger Large Binocular Telescope (LBT) by the MGIO under leadership of the University of Arizona. While most American partners resigned from the project because of irregularities with obtaining the special building permission, another German institution, the Council of German Observatories (RDS) decided to join in November 1995. Only by exemptive legislation from the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA), was special building permission (including the LBT) granted for a defined area. Despite this, in 1993, the University of Arizona engaged in illegal felling of old growth forest outside this area, which led to a construction stop by US courts.

The Apache Survival Coalition's protests against the telescope site are backed by five resolutions of the Tribal Council (the latest in June 1995), a petition by 15 Apache spiritual leaders, and support from other Tribal Councils such as the Mohawk, the Salt River Pima-Maricopa and the Kaibab-Paiute as well as the National Congress of American Indians. The latter passed a resolution in

November 1995 against new exemptive legislation prepared by the USA and senator Kolbe. In the meantime, another organisation, the Apaches for Cultural Preservation (AFCP) joined the telescope opponents.

In November 1995, vice chairman Marvin Mull of the Tribal Council sent a request to the Attorney General at the US Department of Justice to investigate the following presumed law violations: in June 1993 Coronado National Forest Supervisor, Mr. Tip-tesonnic, had admitted in writing that his office had not gone to the trouble of finding out about the Apache views on the planned observatory construction - while knowing many traditional Apache to hold Mt. Graham sacred - except for a letter to the Tribal Council to announce opening up of the construction site. In the second case, the US Forest Service had written to the San Carlos Tribe on December 1st, 1993, for discussion of the final localisation of the LBT, but had, on December 7th, already started clearing more than 500 old trees outside the area provided by special legislation.

Last in 1995, the Apache Survival Coalition informed that on December 12th, 1995, Representative Jim Kolbe in the US Congress successfully displaced a Rider that would help prevent AIDS in the Native American community with a Rider to exempt a University of Arizona telescope from all environmental and cultural laws.

But the standpoint of the San Carlos Apache Tribal Council (SCATC) seems clear, as expressed in the resolution of June 13th, 1995: "be it resolved: that the SCATC respects the spiritual beliefs of all its tribal members," and "that we...do hereby and wholeheartedly rescind Tribal resolution JY-93-130, and thereby state our opposition to the MGIO telescope project."

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Leonard Peltier

Leonard Peltier is still in prison. He was sentenced to two consecutive life sentences for the murder of two FBI agents during a fight at the Pine Ridge Reservation in South Dakota in 1977. However, he was convicted on false evidence, which was produced by the FBI, and a false testimony (see also *IWGIA Document 62*). Leonard Peltier's advocates received documents which had until recently been withheld in order to find new legal possibilities.

Besides this, Leonard Peltier had a new parole hearing. It was very successful and he impressed the commission with his arguments and the theoretical work about programs for elderly people and children he has done. The FBI witness impressed the parole commission in another way when stating: "The agents were killed by someone. Even if it wasn't him, it was someone else." On a basis like that statement, Leonard Peltier has spent 20 years in prison! Usually, the Parole Commission makes its decisions few days after the hearing. In Leonard Peltier's case, the commission demanded additional evidence.

"The December 1995 hearing led to a re-examination by the hearing examiner of the issues beyond the normal scope of an interim hearing, including the previous findings made by the Commission that you participated in the execution of two FBI agents. The limited purpose of an interim hearing under 28 Code of Federal Regulations 2.4 is to determine whether circumstances that have changed since the last hearing warrant a different decision. The Commission declines to reopen your case to re-examine your role in the offense since there are no significant changes regarding information on this issue from the information presented at your last parole consideration. You have not given a factual, specific account of your actions at the time of the offense that is consistent with the jury's verdict of guilt. Considering either theory of your participation in the crimes outlined by the government at the trial, the Commission therefore has no reasonable basis to find an explanation of the facts concerning the agents' execution other than the version presented by the government. See 28 Code of Federal Regulations S2.19C. The government has not changed its position that circumstantial evidence presented at your trial established your complicity in the executions of the agents. Their circumstantial evidence described in several of the decisions of the Eighth Circuit rejecting your appeals supports the previous find-

ings that you participated in the executions. A full consideration of your case will not be appropriate until your 15 year reconsideration hearing. Appeal Procedures: The above decision is not appealable."

3/18/96 National Commissioners, Document Number DNJ OJ Referral p.101

The above decision is a clear and blatant example of a complete disregard for justice. The USPC states in this decision that, regardless of the information brought back to them from the Parole Officer presiding at the December 11th hearing, and despite the favourable recommendation which that officer made following the government's distinct concessions that no direct evidence exists against Peltier nor do they have a clue as to who was culpable in the deaths of their agents, that it is more convenient to keep an innocent man in prison than to deal with the controversy and impropriety that may erupt regarding this case. They even go as far as stating that Leonard has never given a factual account "consistent with the jury's verdict of guilt".

How can an innocent man give a factual account of guilt when he is not responsible? Rather than face the FACTS of Peltier's outrageous incarceration, the USPC would rather scold its own employee for overstepping his bounds where they should commend him for his social conscience. Still a mystery is that the Parole Officer who made the favourable recommendation has since lost his position within the USPC.

After the hearing Leonard has been moved from Leavenworth to Oklahoma to a transfer unit. It was unclear why and when he was supposed to transfer, but a wave of protest letters and faxes convinced the Bureau of Inmate Transfers to do something in order to prevent losing face. Leonard Peltier is at present imprisoned in Springfield/Kansas where he gets the medical aid for his eyes which has been refused him for many years. The Canadian government has not finished the examination of Leonard Peltier's extradition from Canada to the USA.

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2. *Nahua*
3. *Maya*
4. *Rama*
5. *Sumu*
6. *Miskito*
7. *Kuna*
8. *Guaymí*
9. *Embera-Waunan*

MEXICO AND CENTRAL AMERICA

MEXICO

Chiapas - Resources Urgently Needed in Indian Communities

Much of the world, including much of Mexico, seems to be under the impression that the conflict between the Zapatistas and Mexican authorities is on the verge of being settled. Indeed this is the image that has been projected by much of the Mexican press and actively sold abroad by the Mexican diplomatic core, with its long experience as make-up artist for a country with deep inequities and injustices. However, those of us who have been close to the situation in Chiapas for many years see a very different reality - never has the situation of the Zapatistas and the hundreds of thousands of Indians and campesinos they, to a large extent, represent been so desperate, never has the government shown a more intransigent and despotic attitude to Indian demands and never have peace, democracy and prosperity for the majority seemed so far from reach. Three fundamental problems are contributing to the current instability:

1. The Mexican government now openly scorns the negotiations underway with Zapatista representatives. During the most recent talks, government negotiators arrived in week-end clothes, refused to respond to Zapatista questions or make any statements what-so-ever and read or engaged in other activities (one government representative is reportedly studying Japanese at the negotiation table) while Zapatista delegates spoke, in an attitude of brazen disrespect and provocation.
2. The presence of the army and the tactics of 'low intensity warfare' (which many observers claim are the calling cards of US military advisors) are increasing in the Lacandon Rainforest and other areas where the Zapatista are known to have social support. Intimidation and now, under the pretext of looking for "marijuana plantations" direct intrusion of the army in areas of restricted access under the negotiation terms.

3. Funds for economic development that have been made available over the past two years continue to spoon-fed only to those communities or cooperatives that collaborate fully with the government, especially by joining the PRI-controlled political organizations. Independent coops and especially communities who expressed "Zapatista" leanings, (for example during the last congressional elections) are left out in the cold -in some cases their schools have even been closed down!

Of the strong-arm tactics used to pressure the Indians, the last point is the most worrisome because it clearly indicates that the government has refused to change fundamental attitudes directly responsible for the uprising in the first place. Shortly after the end of the fighting in 1994, *Epoca*, a national news weekly, published some revealing figures on agricultural development in Chiapas during the previous years. They reported that even before the Salinas administration years, Chiapas had been identified both by international and federal agencies as a social time bomb. More and more money was made progressively available to local authorities for economic development. During the Salinas government, Chiapas was the major recipient of funds allocated by the federal government for socioeconomic programs.

Epoca pointed out, however, that an analysis of the programs actually carried out during those years reveals a curious paradox: Of the funds made available for the different areas of agricultural development in Chiapas during the Salinas administration only 15% were actually mobilized! The rest stayed in the bank, not even to be robbed by corrupt officials or absorbed in local bureaucracy. The reason for this failure to spend available funds is that those funds were given out in the same manner mentioned above: conditioned on full political cooperation with the government and its official party the PRI. But times had changed; many Indians had become disenchanted with official organizations and had formed their own coops, trying to take direct control of their economic activities without the burden of political tyranny. The local government (ultimately with federal backing) refused to allow financial resources to reach the hands of these independents. Seeing their economic freedom blocked, and facing increasing direct repression from local state police and private gun-slingers, many Indians decided that the Zapatistas were right - the only possibility was armed rebellion.

This terror on the part of the local and federal governments of allowing Indians control of their own economic development apparently continues to obscure the political gaze. In 1995, the government began negotiations with a group of over 30 independent Indian coops who had formed a coalition known as the Democratic State Assembly of the People of Chiapas (AEDPCh in Spanish). This organization represented, among others, most of the groups who had occupied disputed lands since the uprising. Although they publicly supported the Zapatista demands for political and social reforms, they risked Zapatista disfavour to enter into direct talks with the federal government. In fact, the Zapatista central committee at first criticized this decision but later retracted to a more tolerant position. After months of hard work and negotiation with the federal representative, the AEDPCh and its advisors presented the government with a plan and asked for financial backing.

The plan involved an integral regional sustainable development project based on a strategy of promoting selected export crops (such as organic coffee), community-based ecotourism and regional food security. It included a plan for the indemnization of private claimants to Indian lands. This plan clearly demonstrated that Indian organizations had the capacity to initiate a creative, sustainable development process capable of generating local employment, protecting the environment, fortifying and diversifying the state economy and participating successfully in the global market. The response of the government came like a bucket of ice water. Only a few isolated, low priority projects were approved (for communities that had proved more pliable to government wishes) - a package of barnyard animals here, a fruit tree nursery there, a pig feedlot elsewhere. The major integrative projects, that would have given economic coherence to the whole and allowed the Indian organization to operate as a kind of "incubator" of locally-owned businesses were not approved. The AEDPCh called the response an "insult" and refused to continue discussions, publicly recognizing that the Zapatistas had been correct in their criticism.

With this experience it became clear that the government would under no circumstances loosen its iron grip on the absolute political control of all development processes, which is the principle factor currently holding back the economic progress of the region. To date, such funds as have been released have been given to fully

official organizations such as the so-called "ARIC official". Independent coops or communities are denied any kind of aid and troops are usually located near them. Individuals are approached by "ARIC official" members and offered sums to switch their allegiance to the official organization, a situation that has provoked considerable conflict within the communities as the economic situation becomes more desperate and the military's low level pressure inches up.

Sadly, there are, at present, few alternatives for the independent organizations. The talks with the Zapatistas are stalled and seem unlikely to provide an alternative mechanism for economic support of development and the training and technical assistance it requires. The actions of non-government organizations have in large part been blocked by government action as well. In a recent press release the "ARIC official" announced it would request that "foreign" NGOs be expelled from the region for causing "divisions in the communities". (It's a long standing PRI tactic to accuse the opposition of what the PRI is in fact doing!) Naturally, "foreign" NGOs (really Mexican NGOs who have managed to garner very scarce foreign resources, principally from Europe) not only serve as witnesses to government pressure tactics but theoretically could offer an alternative to the government monopoly on development resources.

The international financial agencies, despite noble declarations to the contrary, seem to be no more sensitive to the situation nor interested in fostering locally controlled, democratic economic development. The infamous International Finance Corporation of the World Bank recently announced investments in Chiapas. Yet even a superficial look at the projects proposed induce a sense of nausea. The Fondo Chiapas, which the IFC says it will now support, will promote plantations of rubber, oil palm, and bamboo in the rain forest. It's hard to believe, even considering that the IFC is the private sector wing of the World Bank, that anyone could be seriously discussing these projects for Chiapas, given the social and political situation and the urgent need to find development patterns that conserve the incredible biological treasures of the Selva Lacandona. Crops like rubber occupy prime forest lands; Indians would go into debt to become, essentially, workers in an agro-industry in which their sole function would be to provide a cheap raw material to the corporations who would receive all the value

added. Schemes like these conjure up visions of a future Lacandon Rainforest converted into a dismal concentration camp, tended by the army, where jungle has been replaced by monoculture plantations and free men and women have become prisoners of yet another system to remove their resources and wealth and leave them at the lowest rungs of society.

These projects also demonstrate a myopic vision of Mexico's problems that seems to be quite generalized in official circles. Since entering into NAFTA and GATT, Mexico's food production has plummeted. The country now spends the dollar equivalent of its total petroleum exports on the importation of food, even such basic staples as corn. Mexico contemplates importing as much as 9,000,000 tons of corn, mostly from the US, during 1996. This is 75% of its historic levels of annual production in recent years. Yet Sparks Commodities recently announced that US corn reserves are at a 50 year low and that the Clinton administration may be forced to embargo US grain exports later this year. Is no one in the Mexican government or in the World Bank asking themselves how Mexico will feed itself in the near future if these predictions pan out? Has it occurred to no one that the millions of Indians and peasant who still farm the land, in spite of years of official abandonment, repression and scorn, could be part of the solution?

It is urgent that the Indian businesses and communities of Chiapas, independently of their political affiliations, have access to financial resources, receive sympathetic training and technical assistance and be empowered to take the development of their homeland into their own hands. It is the only way the resources of the tropical rain forest can be preserved and it is the only hope for peace, prosperity and democracy in the region.

Legislation Discussions

In 1995, Mexico became an immense debating chamber focused on the important issue of what could become a national project for the defence and respect of Mexican indigenous peoples. In this gigantic movement of reflection, exchange and reconciliation, delegates of Mexican indigenous groups participated as well as representatives of democratic organisations from civil society, intellectuals and academics specialised in the subject and Mexican government officials. The exchange of ideas and deliberations took place in the *Tzotzil Mayan* indigenous community of San Andres Larrainzar, in

the heaving state of Chiapas. Delegates from the Zapatista National Liberation Army participated in all the meetings.

Obviously, the main theme on the table was the urgent study and the necessary legislation and application of new constitutional articles referring to the recognition of the principle of autonomy for the indigenous peoples of Mexico. The participants were unanimous in their denunciation of the shortcomings, or rather the existing aberrations, of the Magna Carta with regard to the lack of respect for indigenous institutions. However, they did not reach complete agreement on the autonomy proposal, perhaps because it lacked a definition of the precise criteria for autonomy and, above all, because of the magnitude of the problem it comprises, the diversity of alternatives which it offers and the multiplicity of social environments which it will affect or benefit.

In fact, no one doubts that there is an urgent need to legislate for new forms of social and political participation for indigenous peoples and on the creation of spaces and channels for representation of the Mexican ethnic groups within the federal legislative apparatus. Everyone is aware that it is essential that indigenous forms of authority, models of community management and other indigenous decision-making bodies are recognised, respected and that their agreements are observed by the regional or federal political administration. We know that autonomy does not signify territorial break up or the principle of secession leading to a confederation of small nation-states embroiled in the search for alternatives to an atomised survival. But many people worry that a frenetic and perhaps illusory search for ethno-cultural differentiation, sustained by the implementation of a new project of communal jurisdiction (at the municipal, ethnic or even regional level) could lead to a proliferation of mistakes which could endanger minority groups in these communities (women, children, political dissidents, religious minorities, etc.) leaving no possibility for bodies or even sectors empowered by the constitution to intervene to ensure respect for the fundamental rights of all citizens.

The inherent perversions of the Mexican political system have also infiltrated ethnic groups' political spaces and power management models and require considerable caution when it comes to legislating on indiscriminate adoption of the indigenous institutions and indigenous rights as part of our constitution. We cannot blindly deliver a defenceless section of the population over to the rules of

certain institutions without weighing up the consequences this might have for fundamental rights. In Chiapas, it is the Tzotzil women themselves who are complaining that they have no right to inherit land and goods from their fathers or husbands because of certain institutional atavisms. The Tzeltal women have repeatedly denounced the methods of family coercion used to force them to enter into unwanted marriages. Traditional respect for the status of children in the indigenous social universe is often constrained by authoritarian attitudes which cross cut the legitimate interests and aspirations of children to study or be involved in different types of activities according to their personal preferences.

Expulsions and other forms of repression still obvious today and used against minority sectors of the population have repeatedly served to stress the aberrations of supposed ancient institutions which serve the interests of the indigenous caciques rather than the legitimate application of the people's fundamental right to live happily and according to their customs.

GUATEMALA

"History is circular, just as time is circular. There are good cycles and bad cycles. The cycles of the history of the *Mayan* people are marked by more or less 500 year periods...so it is written". Thus speak the Mayan elders to explain the phenomena which are happening in their "lands of maize". This is how they explain how the most recent bad cycle which began with the Spanish invasion of the continent. They also explain that the end of this negative phase and the beginning of the rebirth of the Mayas was marked by the award of the Nobel Peace Prize to the *K'iche* leader, Rigoberta Menchu Tum in 1992, five hundred years later.

What has been happening since then is encouraging for the Mayan peoples. The UN-declared Decade is a process of peace which will allow the country to turn its eyes towards the vast impoverished majority and to the upsurge of new and varied forms of indigenous organisation which are gradually taking up the seat of honour which is due to them in the transformation of Guatemala.

Four victories in 1995 marked the new era for the indigenous peoples of Guatemala: the Agreement on the Identity and Rights of the Indigenous Peoples, the first *K'iche* electoral triumph in 500 years in the country's second city; the winner became the first

indigenous mayor in this important municipality; the election of several indigenous leaders who have taken up their seats in the Congress of the Republic; and the ratification of ILO Convention 169 by the Guatemalan Congress at the beginning of 1996.

Although clearly the achievements and advances of the Mayan peoples have been in different fields and to different extents, these four achievements are, nevertheless, important landmarks in the present history of the country.

Guatemala is living through a process of negotiations to find a means of ending one of the oldest conflicts in Latin America. For more than 30 years Guatemalan guerrillas tried to achieve power through armed struggle, and offering the population in general a more just system. The indigenous peoples joined this struggle in the 1980s although it did not recognise them as peoples but had an ideology which only encompassed social classes. Within this concept they were part of an oppressed and exploited class, in a simplistic interpretation of the multiethnic and pluricultural reality of the country. On the other side, the army swelled its ranks through conscription and hundreds of thousands of indigenous people defended a system which had never taken any account of them. The leadership of both sides in this war was in the hands of non-indigenous commanders and generals (or *ladinos* as the mestizos and whites are called in Guatemala).

The peace negotiations between the guerrillas and the army allowed the indigenous peoples to put forward proposals through the Civil Society Assembly, created to allow the participation of civil organisations in these negotiations. For the first time Mayans from different ethnic groups, working together in the Coordination of Mayan Peoples' Organisations (COMPMAGUA), had the opportunity to make proposals in favour of the Mayan peoples as a group. Their proposals were the impetus which shaped the discussions at the negotiating table into an agreement which recognised their identity and their rights.

This agreement conceded the right to land, to the use of indigenous languages, and also the officialisation of these languages in Maya speaking areas; to the wearing of their dress and to respect for ancestral Mayan customs through which the Maya exercise their spirituality, banned since the arrival of Europeans on their continent. It also talks of respect for customary rights in areas in which community norms are maintained over and above national

law. The agreement today is the most important indicator of development and progress which the indigenous peoples of Guatemala have. The points addressed in it will become law when the peace is signed and the agreements are implemented.

Quetzaltenango is the second most important city in Guatemala. The ethnic and cultural contradictions there mirror the situation at the national level. With an indigenous population of almost 60 per cent, the levels of discrimination are quite marked.

The city has been governed since colonial times by ladinos and any attempt by the indigenous peoples to aspire to municipal government was treated with ridicule. The pressure was such that to stand as a candidate meant first subordinating indigenous identity to that of the region. This is the way Roberto Queme Chay, a K'iche professional who left the Xel-Ju civic committee and managed to beat the powerful machinery of the political parties, triumphed and pulled off a landslide victory which extended beyond the city limits and became a symbol of what could be achieved at other national levels. The Xel-Ju, whose name is the same as that of the city in K'iche, played out their struggle over 25 years to achieve this victory, which was one of the greatest recent achievements in the national indigenous movement.

In a similar fashion, several Mayan leaders entered the Congress of the Republic with important recognition both at the national and international level. Rosalina Tuyuc and Manuela Alvarado perhaps best exemplify this. Leaders such as Rosalina Tuyuc, who were always critics of the system, standard-bearers of struggles such as the abolition of forced military service and the exercise of conscientious objection, today have the opportunity to propose and approve laws aimed at expanding these political spaces in the still fragile Guatemalan democracy.

Although previously there were indigenous people in Congress representing traditional parties, they never had the position they have now which is so clearly in favour of their own interests and their mission to strengthen their cause.

After several years of lobbying, the Congress of the Republic approved ILO Convention 169 with some amendments. With this act, the Mayans now have their first legal instrument in force, one which touches on one of the most sensitive issues in the country, the recognition of Mayan peoples' rights to the land which they have traditionally occupied. Until now the land problem has been out of

bounds. Any talk of agrarian reform in the country has been until only very recently almost a sin because large landowners forged their fortunes by plundering land from the indigenous people, who were displaced to less productive areas and slowly transformed into a cheap source of labour.

In Guatemala one can find cases of land which is legally registered in the name of different proprietors, all of whom claim to be its legitimate owners. This came about after different dictators in turn granted their loyal followers lands won from their adversaries, who in turn took out titles in spite of it being the property of the indigenous communities who lived there.

The problem of land ownership became one of the most important issues in the negotiations for peace between the government and the guerillas because it was one of the main issues which generated the violence. However, although the National Constitution recognises many more rights than those recognised in Convention 169, the latter allows action to be taken immediately unlike the Constitution which must await the establishment of these rights in laws which have not been written yet.

The number of Mayan organisations continues to increase. Today there is a flowering of organisations of Mayan priests, women, mayors, etc. There are new means of communication using Mayan languages following the example of *El Regional*, the pioneering weekly newspaper published since 1991 in indigenous languages. A Mayan news agency belonging to one of the large national newspapers, as well as some small but significant local media, are symptoms of another battle which the Mayan have won for the opening up of communications so they can express themselves.

With these other successes, the Mayans of Guatemala are beginning to stride out with a sure footing along this long road which, according to the legend, ought to lead them to 500 years of success.

HONDURAS

Eighty per cent of recognised protected areas in Central and South America are inhabited by indigenous peoples who have been subject to different types of restrictions, especially to their traditional forms of production. In Honduras the government has decreed the formation of two National Parks in a *Garifunas* area. These are Cayos Cochinos which is an insular archipelago comprising 18

small islands, and the Punta Sul Park in which five Garifuna communities live. These communities have still not been thrown off their land but they live in fear of imminent expulsion. The Honduran Advisory Commission for the Development of Autochthonous Ethnic Groups expresses the situation in the following way:

"We are clearly not against the protection of the environment and the natural resources because at present the only areas of Honduras where the natural resources have not been indiscriminately exploited are the areas inhabited by the indigenous and black peoples. But any government decreed laws to protect the environment which do not include the participation of the people who have historically lived on these territories appears to us a violation of human rights".

NICARAGUA

The indigenous peoples of the Atlantic Coast of Nicaragua are struggling to defend their lands and territories from the constant encroachment of the agrarian frontier and economic interests. Every year the agrarian frontier is gradually moving its way across the country into lands of the *Miskitu* and *Sumu*. Logging companies, such as SOLCARSA, MEDENSA and other economic enterprises, are interested in indigenous timber resources and offering deals to impoverished communities, such as *Yulu*, *Sukatpin*, *Kligna*, *Miguel Bikan* and countless others, which could strip them of their resources. Those which refuse face the constant threat of illegal logging, now endemic throughout the last remaining forest areas of the Atlantic Coast.

Since the war finished ten years ago, the rehabilitation of indigenous communities has been slow and difficult. The communities of the R!o Coco face problems from several directions. Communities such as Andres are still mined and the army complains that it has no resources to clear the area. During the year a teacher in the community lost his foot and several head of cattle were killed from the mines. Furthermore, the communities depend on their survival by using their traditional lands on both sides of the river Coco which borders on Honduras. The communities are based on the Nicaraguan side and their gardens are on the Honduran side. Until last year, the Miskitu from the Coco had to pay 10 percent tax on all

produce grown to the Honduran army; in 1996 this was put up to 20 percent. This extortion takes place within the context of a gradual desiccation of the river as the result of the over-exploitation of timber in the headwaters.

The regional autonomy structures of the Atlantic coast has room for participation of indigenous peoples and different Miskitu political groups have managed to ensure that their interests are represented. The two year change of government in May, 1996, led to a shift from an alliance between the Frente Sandinista and Yatama under the governor of Marcos Hoppington to one lead by Steadman Fagoth. In spite of indigenous political representation at a regional level, the main problem for the regional governments of northern and southern Atlantic Coast is obtaining the necessary resources to carry out an autonomy which reflects the needs and desires of everyone in the area.

1996 is the year of a general election and there is a concern that if the right-wing front under the current Mayor of Managua wins, a strong neo-liberal regime will lead to even more suffering for the indigenous peoples of the area. This will mean an increase in the exploitation of the forests which the communities need for their basic subsistence.

PANAMA

In Panama the conflict over the boundaries of the Kuna Yala Comarca and the border with the province of Colon continues. At present the boundaries between both regions are laid down in Article 21 of the Law of 16th February 1953. This states that it runs from the mouth of the Playa Colorada river, at the Caribbean sea, and follows an imaginary line southwards until it meets the Mandinga river. There it continues upstream to the source of the river, on the summit of Cerro Brewster. But the *Kunas* have never recognised this boundary in that it cuts off an important part of their Kuna territory where several indigenous communities live. The Kuna protests over this contested area have been provoked by the government's plans for a tourist centre, run by Mandinga Tourist Development SA.

On the 10th March 1996, at a meeting called by the Kuna General Congress in Achutupu, a declaration was made in which the indigenous peoples "expressed their total rejection of the anti-



The Kunas continue the demarcation of their traditional territories, Panama. Photo: Alejandro Parellada

indigenous policy of the Panamanian government" basically because of the government's lack of recognition of the boundaries of their territories. Meanwhile, and with international cooperation, the Kunas continue to physically demarcate Kuna Yala although they have still not had this work officially recognised. Another serious problem facing the indigenous peoples of Panama is the government's enthusiasm to authorise mining concessions. To date, there are more than 140 permits for mineral extraction, many of which are located in indigenous territories. The Kuna General Congress expressed its concern for

"the access this provides foreign companies to the goods and resources of the Republic and the indigenous peoples of Panama and for the disdain and humiliations which it brings to us the original inhabitants of this country. What other way should we Kunas react and feel when we hear that mining concessions have been authorised on our Comarca, in spite of us having cared for and lived for thousands of years on these lands."

They also specifically denounced the Canadian company, Western Keltic Mines, Inc. for carrying out a policy of penetration with the

aim of "dividing, mining and weakening Kuna political institutions". This company is ready to begin the exploitation of five concessions on Kuna territory.

The Kunas accuse the government of contravening ILO Convention 169 and the National Constitution which in Articles, 5, 86 and 123 protects the rights of the indigenous peoples to special regimes, to defend their ethnic and cultural identity and to guarantee the collective property of their territories. On the 13th February 1996, the Council of Ministers approved a contract between the Cerro Colorado Mining Corporation (CODEMIN) and Panacobre Society AS for the exploration and exploitation of mineral deposits located on indigenous territories. This mainly relates to the extraction of copper in a zone considered to be one of the richest in the world. However, the *Ngobe-Bugle* people, who are one of the main peoples affected, have not participated in the decision making. If this is a multi-million dollar contract, as the Ngobe-Bugles suspect it is, the profits will go directly to the mining companies and the state and the real owners of these lands will continue to be ignored. Faced with this situation, the indigenous peoples are continuing to organise themselves not only against the mining activities but also in support of the creation of their own Comarca.



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| 1. Yucpa | 7. Candoshi | 13. Enxet |
| 2. Yanomami | 8. Ashaninka | 14. Totobiegosode |
| 3. Embera-Katio | 9. Guaraní | 15. Whichi |
| 4. Huarani | 10. Macuxi | 16. Toba |
| 5. Shuar | 11. Parakana | 17. Kolla |
| 6. Aguaruna | 12. Urubu-Kaapor | 18. Mapuche |

SOUTH AMERICA

VENEZUELA

It has now been 12 years since Venezuela passed a decree which made ILO Convention 107 on Indigenous and Tribal Peoples part of national legislation. However, efforts to put this legislation into practice have been minimal. Over the last ten years in particular, the indigenous peoples have experienced a tremendous increase in pressure on their land from mining and timber activities and state infrastructure projects (as well as other illegal projects) and, more recently, from 'ecotourism'. Nevertheless, in spite of the government's legislation, the authorities have done little or nothing to protect the interests of the indigenous peoples.

On the contrary, many government departments have ignored and actively rejected indigenous rights, even authorising or encouraging invasions of indigenous lands. Although 72 per cent of the indigenous communities still have some kind of property title to their lands, there are detailed reports of invasions of indigenous lands and territorial conflicts throughout Venezuela.

The colonisation of the lands of the *Bari* and the *Yupka* by ranchers and poor farmers continues in the Sierra de la Perija, which has also been taken over by large open cast mines. The local government has tried to award the *Kari'na* peoples' lands in Monagas to third parties even though the indigenous peoples have colonial titles to the lands. Farmers have been given control of the majority of the *Yaruru* indigenous reserve in Apure, while the *Yaruru* are prevented from entering what remains of their territory as this has been made into a national park. The Ministry of Energy and Mines and the Venezuelan Corporation of Guyana are handing out mining concession and permits with no concern for the indigenous peoples. The state of Bolivar continues to authorise timber concessions for lands inhabited by the *Pemon*, *Akawaio* (*Ikapon*), *Karin* and *Arawak* (*Lokono*). Of course, the government's Forestry Service lacks any policy for indigenous peoples and the forestry concessions are undermining the way of life of the *Warao* in the Amacuro delta.

In Amazonas, the most isolated state in Venezuela, territorial conflicts are also on the increase. Ranchers threaten to destroy the Yabarana, while road building and colonisation are encouraging forest clearance along the length of the Orinoco river, which is leading to serious conflicts with the *Piaroa* (*Wotuhjeje*) and *Gua-hibo* (*Hiwi*). Illegal mining, most of which is carried out with the connivance of members of the National Guard and local politicians, has also extended to indigenous areas. Over and above this, 'eco-tourism' camps are being constructed in many areas which are provoking serious conflicts, mainly with the *Piaroa*.

Violence towards the indigenous peoples has also increased. The killing of *Yanomami* by Brazilian miners in 1993, in the Upper Orinoco, not only goes unpunished but may well happen again. There are reports of incursions of miners all along the border with Brazil from Neblina in the southeast to the upper region of Caroni in the east. There are also reports of killings of indigenous people by the military and police in *Goajiro* (*Wayuu*) and *Yupka* areas in the northeast of the country. There have been a number of attacks recently on *Cuiva* hunters and gatherers in the state of Apure. Indigenous organisations and human rights groups have waited in vain for official investigations into these abuses.

In terms of health, medical care for the indigenous peoples in Venezuela is minimal and well below the levels of service provided for other citizens. The indigenous census of 1992 revealed that 86.8 per cent of indigenous communities did not have access to a dispensing clinic. This lack of health provision has led to serious problems for the indigenous peoples, especially in isolated communities in remote areas far from medical centres and with relatively little experience of western infectious diseases. There are reports of epidemics, mainly malaria which is extensive among the *Yanomami* and *Sanema* in the states of Bolivar and Amazonas where local clinics do not even have the most basic resources to tackle these problems. Tuberculosis reached endemic proportions in the Caura and Paragua regions at the beginning of the 1980s and still continues untreated. Over and above these problems there is evidence of increasing mercury contamination in the water, rivers and ecosystems caused by uncontrolled mining activity by gold panners.

In general, the government's policy for the indigenous peoples has had little coherence and is ill defined. The very centralised nature of most government decision-making since the 1960s has left relatively little space for local or regional initiatives to influ-

ence national policy; centralised decision-making has isolated indigenous issues. The state institution with responsibility for indigenous affairs has been and continues to be poorly resourced and lies on the political margins with limited authority. Since the 1970s responsibility for indigenous affairs has been with the Department of Indigenous Affairs of the Ministry of Education but this body is not authorised to work on the most important issue for the indigenous peoples: lands.

In the last few years, the indigenous communities themselves have begun to mobilise and organise themselves into local, regional and national organisations which have ensured that indigenous issues have begun to receive much more attention in the national media.

COLOMBIA

In Colombia on the 22nd March, the national government presented the Organic Law of Territorial Legislation to the Congress of the Republic, known as Draft Law No. 191. In general terms, the Draft Law does not recognise the integral character of territorial bodies within the Republic which the Constitution does in relation to Indigenous Territories. On the contrary it tries to limit them to their minimal expression and ignores their articulation with other territorial bodies in the context of national legislation, so that legislation for regions and provinces does not even refer to them or their competencies, as if they did not exist.

For its part, the U'wa territory, like many others in the Amazon region, is being threatened by oil companies. Twelve years ago the Colombian Petroleum Company (ECOPETROL) signed a contract with the multinational, Occidental Petroleum Corporation, for an area which was called the Samore Block, a quarter of which belongs to the U'wa. These indigenous people have been suffering since the 1960s from the loss of their territory through the colonial state policies and from the construction of an oil pipeline. At present, the U'wa have a land title for three reserves (*resguardos*) in the Samore block but there are also several U'wa communities within the same area which have not had their situation legally recognised.

The U'wa have been demonstrating their opposition to this oil exploration in their territory and are already aware of the disas-

trous experiences of the indigenous peoples in the neighbouring department of Arauca.

In spite of this indigenous opposition and the obvious devastating effect which even the oil exploration phase will have on the economic, social and cultural integrity of this people, the Minister of the Environment awarded the project an Environmental License with complete disregard for Article 330 of the Constitution which forbids the exploitation of natural resources in indigenous territories when these contribute to the disintegration of the communities. Meanwhile, ILO Convention 169 (Law 21 of 1991) demands that the community gives its consent to measures which affect them through an appropriate form of consultation. The U'wa, by means of the Peoples' Defence, took out a protection order to stop the Environmental License going ahead and at the same time they demanded that the State Council annul the license.

Although the contracts do not state it, in Colombia oil exploration and exploitation licenses give the multinationals the right to decide on the destiny of indigenous lands. This is exactly what happened in Magdalena Medio and Opon-Carare where the indigenous inhabitants were totally exterminated in the first half of this century. In the Perija Mountains the *Motilon-Bari* were forced onto a war footing against the oil extractors. In Arauca, the *Guahibos* have been cornered into minuscule reserves and reduced to begging in the oil capital. In the Putamayo, over the last 15 years the oil companies have made roads on the *Kofan* people's territory and in the last few years they have lost 80 per cent of their lands. Today the Colombian government has handed over not only a contract to Occidental but the destiny of the U'wa.

GUYANA

There are worrying signs that the freeze in the hand out of logging concessions to foreign companies in Guyana is about to break. Under heavy pressure from foreign investors, the Guyanese Government may be about to offer new permits to foreign companies, despite promises made to the aid agencies in 1994 that no new logging concessions would be handed out until the moribund Forestry Commission was revived and back in control of the 'existing' timber cutting.

According to the national newspaper, 'Stabroek News' on 12 March 1996, the Presidential Adviser for Science, Technology and

the Environment, Navin Chandarpal has been negotiating with the Malaysian company, Solid Timbers Sendirian Berhad, to grant it a 500,000 hectare timber permit in the Upper Corentyne / New River area in the extreme south of the country. This is about half the over 1 million hectares the company had originally sought even further south in the New River Triangle area - a territory disputed with neighbouring Suriname. Both areas are outside the jurisdiction of the Forestry Commission and way south of the country's existing road network. According to the newspaper report, the Government would first pass legislation expanding the area of State Forests and then offer the company an exploratory lease to the area, under which it would carry out a forest inventory and develop a forest management and investment plan. The same report also alleges that two other South-East Asian investor groups including Alex Ling Lee Soon and Vincent Tan's Berjaya Sdn. Bhd. are still seeking further areas in the south.

Under its agreement with the aid agencies, the Guyanese Government has agreed that - in order to ensure sound forest management and profitable returns to the Guyanese Exchequer - no new timber permits should be issued for a minimum of three years after May 1995 or until the Forestry Commission is able to regulate the industry. Meanwhile, with the technical and financial support of the British Overseas Development Administration, the Forestry Commission is attempting to build up the numbers and training of its staff and revise forestry regulations and royalties with the initial aim of establishing control over the nearly 9 million hectares of forests already under concession, while making the industry a profitable source of national revenue.

Guyanese foresters agree that it will be years before this is achieved and that meanwhile concessionaires are subject to minimal supervision. This is just the kind of situation that logging companies thrive on. Poor supervision, low taxes and cheap labour are thus attracting investors to the country. Indeed, at present loggers get their timber in Guyana extraordinarily cheap. A study carried out for the World Bank in late 1995 showed that the royalties, taxes and forest fees being paid by loggers in Guyana are some of the lowest in the tropics, being less than a tenth of those paid in most Africa and Asian countries. Moreover, since 1988 fees have been falling in real terms. Royalty rates are at 30% of their former value, while customs duties and acreage fees have fallen by more than 90% in the past decade. On top of this, the report states,

foreign companies enjoy 'generous tax breaks and other incentives creating conditions of unfair competition (for local producers)'. As a result Guyana is liquidating its forest assets for little national gain. Warns the report:

"This kind of forest mining entails a boom-and-bust pattern of development that can be highly disruptive to employment levels, trade balances, and other factors of macro-economic stability"¹

To get around their commitment to the aid agencies not to grant new logging licences, the Government seems to have invented the legal fiction of 'exploratory leases' - a category of permit which does not exist in Guyanese law. By this means the Government hopes to keep foreign investors interested and then grant them licences as soon as they can get away with it.

Aid agency officials in Georgetown have been aware of these negotiations for some time and are also concerned by rumours that the Canadian timber company, Buchanan Forest Products, is seeking access to a 400,000 hectare concession on the Middle Mazaruni river. This unlogged area was recently relinquished by Mazaruni Forest Industries Limited (a consortium formed by members of the Prime Group of Singapore) in exchange for the Prime Group's takeover of the financially strapped Demerara Timbers Limited which is exploiting a 500,000 hectare concession on the Middle Essequibo. Buchanan's proposed operations on the Middle Mazaruni would bring it into conflict with a number of villages of Aka-waio Indians who have inhabited the area for centuries. Under pressure from Buchanan, which enjoys support from the Canadian Embassy in Georgetown, the Government is alleged to be considering also granting them a three year 'exploratory permit'.

Buchanan does not have an untarnished reputation back in its home province of Ontario in Canada. A report made for the Canadian Paperworkers Union in 1992 notes that Buchanan

"has evolved into a company riddled with contradictions. On the one hand, it has a long history of doing all it can to avoid forestry, environmental and labour legislation. On the other hand, as it has grown, the Buchanan group of companies has become more mainstream."²

The report details how Buchanan has successfully fought to reduce labour costs and has extravagantly logged forests to maximise

profits with little regard for the damage to residual timber stands and little concern for timber wastage. According to the report, Buchanan has also used strongarm tactics - threatening to close mills - to pressure politicians into granting it access to forests. Of particular relevance to Guyana, the report highlights how the company thrived on lax government controls, reaping financial benefits while passing on the social and environmental costs to be borne by others.

The report alleges that the company was able to avoid prosecution for violating environmental and forest management regulations, due to close connections with senior politicians in the environment ministry. Tracing the company's history, the report notes how 'laissez-faire' and political connections allowed Buchanan to get away with repeated violations of the Crown Timber Act, especially during the 1960s, 70s and early 80s. In recent years, however, due to growing public concern for the environment, supervision has tightened and compliance has been more carefully enforced, obliging Buchanan to toe the line.

Despite improved compliance with forest management practices, Buchanan has nevertheless managed to keep costs low, mainly by defying the trades unions and avoiding obligations to its employees. Notice the report:

"Buchanan's track record in labour relations has steadily deteriorated from the late 1970s and throughout the 1980s. Buchanan's defiance of union agreements, its avoidance of mandated employee benefits and treatment of contract labour in woodlands are notorious."

Meanwhile the mining industry in Guyana is also moving south. Leading the way, again, is the Malaysian firm, Solid Timbers Sendarian Berhad, whose wholly owned local subsidiary, Tanahmas Gold Mining Company has just been granted a 7,000 hectare mining lease in Camp Jaguar on the New River. The company has also applied for a further 14,000 hectares in an adjoining area.

Mining is also intensifying in other indigenous areas. Carib Indians on the Barama river report several new gold mining operations on their traditional lands including Citadel Co., Sonie Soil and the Roraima Mining Company.

SURINAME

After months of deliberations, the Surinamese Government's special commission reviewing draft contracts granting several huge logging concessions to foreign companies has finally submitted one contract to the National Assembly for approval.

The contract, which allegedly grants the Malaysian company, Berjaya Sdn. Bhd. a one million hectare concession in the eastern part of Suriname, is being fiercely opposed by the indigenous and *Maroon* peoples who inhabit the interior of the country.

The interior peoples are dissatisfied that the Government continues to give priority to foreign companies while it refuses to honour promises made to them in 1992 to recognise their rights to their ancestral territories.

The contract was passed through to the Assembly in mid-January but in view of the opposition in the interior the Assembly chose not to accept it immediately and asked for two weeks to consult with the leaders of the local peoples in the concession area. On February 6, the Assembly demanded a further extension as the local leaders had forcefully expressed their opposition to the contract. Fierce debate now rages in the capital, Paramaribo, over whether the concession should be granted. Domestic timber companies have also expressed opposition to the contract since they claim Berjaya will be granted fiscal benefits that the local sawmills do not enjoy, thus making them uncompetitive.

Berjaya claims that it has already invested US\$20 million in Suriname and has expressed considerable impatience over the delays. However, in response to objections raised by the Maroon and Indigenous leaders, the company has also stated that it will not log areas where the local communities are opposed to its presence. A Berjaya spokesperson has been quoted in the press as stating that if the forest communities in eastern Suriname are opposed to the logging they would prefer to be granted a concession further west, perhaps in the area initially slated for the Indonesian transnational Suri-Atlantic which appears to have withdrawn its bid for the forests south of Apura.

The Berjaya company has been embroiled in equally heavy controversy in the Solomon Islands. Last year, after being accused of bribing government officials and then getting caught up in a land dispute with the indigenous communities, the company pulled out and embarked all its machinery for South America. It is uncertain whether this plant will

be sent to Suriname or neighbouring Guyana, where Berjaya has already secured control of an existing but unexploited concession previously granted to local companies UNAMCO and Case Timbers.

Meanwhile the Indonesian logging company MUSA, which has been operating in Suriname for several years, has also become embroiled in a land dispute with a local plantation owner having expanded its milling operations far beyond the small 50 hectare site it had acquired. Even after a judge concluded that 90% of MUSA's activities at the site were outside its legal holding, MUSA refused to pay compensation, leading the courts to seize the company's machinery, buildings, land and lumber.

The controversy over foreign loggers has gained significance as Suriname is to hold general elections in only four months. Opposition members of parliament are contesting the concessions as they would present any incoming government with an uncomfortable 'fait accompli'. Efforts to secure the votes of the interior communities in the upcoming elections have raised the political temperature.

At the end of January, local human rights, indigenous and environmental organisations placed a full page advertisement in the national press opposing the concession as politically irresponsible, economically unprofitable, environmentally ruinous and as an affront to the rights of the interior peoples.

They have called on the Government to: postpone the granting of the concession; legalise the granting of land rights; provide educational, health and social services in the interior; involve the local communities in future decision-making; and strengthen the capacity of government to regulate the timber industry.

The Maroon and Indigenous organisations are demanding that their territorial rights should be fully and legally recognised and effectively secured before any concessions are granted in the interior. They also demand that they be fully involved in negotiations with the companies and allowed to represent themselves through their own institutions.

ECUADOR

In January and February 1995, the undeclared conflict between Ecuador and Peru directly affected the *Shuar* peoples of Ecuador and the *Aguaruna* of Peru. The indigenous organisations of both countries were extremely worried, as was COICA, because these two peoples

had declared their support for and participation in their respective national armies. In fact, the defence of "national sovereignty" has not benefitted the indigenous peoples one little bit, but rather, on the contrary, has increased their poverty and marginalisation.

Wanting to initiate a dialogue between the opposing indigenous peoples, COICA organised three meetings with representatives of the Confederation of Indigenous Nationalities of the Ecuadorean Amazon (CONFENIAE) and the Shuar Federation on the Ecuador side and, on the Peruvian side, the Interethnic Association for the Development of the Peruvian Rainforest (AIDESEP). The most important resolutions to come out of these meetings were: 1) their disagreement with the military policies of both States, their willingness to overcome nationalistic ideologies and to work for the unity and organisational consolidation of the indigenous peoples; 2) the indigenous peoples' rejection of government policies with respect to the border areas wherein, under the protection of the Law of National Security, States can assume control of these areas thus putting the indigenous peoples' ancestral possession at risk; 3) that both countries work to find peaceful solutions to their differences; legalise indigenous territories in favour of the indigenous peoples and that these territories be divided between the indigenous peoples themselves as a Zone of Union and Friendliness.

Some months later the national government approved the Agrarian Development Law which is a direct threat to the integrity of the indigenous peoples. Immediately, the Indigenous National Confederation of Ecuador (CONIAE) came out against a law of this nature which ought to have been the product of the reflection and discussion of all social sectors of the country. In view of the fact that it was not produced in this way, and faced with the state's refusal to revise it, the indigenous peoples held an extraordinary assembly of CONAIE on the 7 and 8 June. The meeting decided to begin a campaign against the law which paralysed 12 of the country's 21 provinces for 10 days. Finally, on the 23rd June, in the midst of a state of emergency decreed by the government, the Tribunal of Constitutional Guarantees declared the law unconstitutional.

The indigenous movement, led by CONAIE then began a dialogue with the government with the aim of reformulating the law. After several days of demonstrations and dialogue a new version of the law was accepted which came into force on the 3rd August and whose main components are as follows:

- that the indigenous peoples' maintenance of their traditional ways of life be recognised;
- that the agrarian reform, initiated piecemeal in 1964, should be continued based on four grounds for expropriation: the existence of precarious employment; threats to the natural resources; that lands have been unexploited for more than two years; and that the land is subject to strong demographic pressures;
- that water continues to be a national resource for public use and cannot be expropriated;
- that technical training be authorised, credits made available and there be equality of opportunity for commercialisation by the indigenous organisations.

In view of the disadvantages to them from political decision-making within State bodies, the indigenous movement of Ecuador decided to organise itself to participate in the general elections of the 19 May 1996. Allied with other popular sectors, it formed the 'New Country' Pachakutik Plurinational Movement standing for the majority of the elected positions. This decision has led to a huge challenge, because, while it is up against very powerful political and economic sectors, it is legitimating the rights of the indigenous peoples to be elected as civil authorities and demonstrates that they are capable of directing the destinies of their own people.

PERU

In Peru, since the terrible massacre of *Ashaninka* families in Tahuatinsuyo, Mazamaria, Peruvian society has expressed its solidarity with the suffering this people has endured over the last ten years in a situation of extreme violence. However, no one in government has made an effort to get to the roots of the real problem of the Amazon peoples who have been impoverished and oppressed by the uncontrolled invasion of their territories or linked the violent acts taking place in the Central Rainforest with the policies of colonisation carried out through Special Projects of large scale rural settlement.

The liberal policies of the present government continue to create a series of measures which allow new abuses of the indigenous peoples' collective rights and threaten a return to violence in the

Amazon, thus endangering the newly initiated and still fragile peace process in this tumultuous region. The majority of the high-land regions are affected by extreme poverty exacerbated by adjustment policies (under funding, fall in the price of agricultural produce, competition from imported foodstuffs). This does not improve the prospect of uncontrolled migration towards the rain-forest and, once the situation has calmed down, new waves of migration will gather momentum mainly directed towards the areas once most affected by the violence.

To make matters worse, the government has taken legal steps which will seriously compromise the future of the indigenous Amazon peoples through controls proposed in the Letter of Intention to the IMF. Law No. 26505. It is an 'about turn' on land policy and opts for major investment while ignoring the rights acquired by the indigenous population. The law and the proposed regulation, which will be announced when it comes into force, can be defined as deregulating and an open invitation to national and international investors to acquire indigenous lands, especially those which have not yet been titled. As well as ignoring the special relation which ties indigenous peoples with their territories, they are proposing a series of measures, many of them unconstitutional, which endanger the security and future of these peoples (but now territories are big business).

The ability to declare forest lands under concession (a large part of the lands included in the demarcation plans) as abandoned through non-compliance with the concession contract is an act of discrimination with unforeseen consequences. The original concept of 'abandon' has been expressly eradicated from the new legislation. But while the Law ensures investors complete freedom to use the land exactly as they want, the indigenous peoples are obliged to use their ancestral territories according to certain rules and under threat of dispossession, a measure which only affects them.

This provision is even more contradictory in that it forces an institution, which is set up to carry out cultural and agricultural work, to abide by a contract which explicitly forbids it to do this. On the other hand, its unconstitutional character is quite clear in the context of Article 62 of the Magna Carta. But as it is applied after only a simple visual inspection with summary proceedings and no real possibility of opposing it, the injustice is made clear. We are dealing with a veiled act of expropriation which could put the subsistence of the indigenous population in grave danger.

Many other legal proposals threaten the indigenous communities, which in a display of cynicism, become legislation and part of the common proceedings under the assumption that there is equality between parties. Moreover, if the territorial guarantees are reduced to a minimum then the possibility of restitution of lands as yet untitled is practically non-existent. The government is proposing to draw up a map of eroded lands which, if there is no opposition, will be registered in its name and publicly auctioned. Yet again, these proceedings are an insult to indigenous peoples' justice. The fact that map with lands is advertised peremptorily in the newspapers implies a total lack of respect for indigenous peoples' rights as they could find themselves taken by surprise at any time by an unknown owner of their ancestral lands.

This colonial behaviour towards the indigenous peoples of Peru is in a rebound to the ratification of ILO Convention 169 (Legislative Resolution No. 26253). All the economic, social and cultural rights of indigenous peoples are being threatened and generate insecurity over an issue so important as territories, territories which provide indigenous peoples with their medicines, workshops, schools, sources of materials and markets.

Hydrocarbon and Oil Industry

Furthermore, today the Amazon is facing a new threat which is putting the land and the cultural life of many of the indigenous peoples and other local people under threat. The Peruvian government has launched an aggressive promotion of the hydrocarbon industry and authorised greater facilities for the development of oil activities including exploration and exploitation operations on the lands where the indigenous peoples live without laying down any cultural or environmental guarantees and with no respect for the rights which, in compliance with ILO Convention 169, allow for consultation with the indigenous peoples before licences are authorised.

In the last few years the privatisation process of Petroperu has begun, as recommended by multilateral agencies such as the IMF and the World Bank, and the free market model of competition has been implemented with the promotion of foreign private investment in the exploration, exploitation, transport, refining and commercialisation activities of hydrocarbons. To facilitate this legal stability, certain measures have been set in place in the sector as

well as exoneration from taxes on the importation of goods and consumables, on the repatriation of utilities, on interest, the deregulation of the consumer goods market, abolition of labour norms, an increase in the extent of concessions, facilitation of the transport and distribution of infrastructure, etc.

To date, because of the demand by the indigenous organisations, the only thing they have received from Ministry of Energy and Mines in a few cases is an invitation to listen to the presentation of the Environmental Impact Assessment Studies which the companies offer. But the objective of this invitation is only to comply with the simple formality; they do not distribute the document in advance as they ought to allow technicians and indigenous leaders to familiarise themselves with it and give it their considered opinion.

In fact, practically all the rainforest has begun to be divided into lots with the aim of hydrocarbon exploration and exploitation. And, secure that the government will protect foreign investments, companies are anxiously competing with each other to obtain operation licenses.

The lots which are now being exploited are causing serious social and ecological deterioration of the Amazon. For example, the National Office for Evaluation of Natural Resources (ONERN) determined that the area of the rivers Pastaza, Tigre, Corrientes and Marañon, some approximately 4 million hectares in the Northern Peruvian Amazon, is one of the 'critical environmental zones' most endangered in the country. Oil activities have brought grave consequences for the indigenous peoples and other local populations.

In the rivers of the rainforest, salt levels have been raised by the dumping of waste into streams which destroy the flora and fauna on contact as well as contaminating the rivers from which the communities take their water for domestic use. The heavy metals and organic matter which are also in the streams are accumulating in the food chain of the fish and over time lead to gastro-intestinal diseases, as is happening among the *Quichua* communities who live on the banks of the Tigre river where the oil company Occidental has been ejecting its liquid waste for more than 20 years from exploitation wells which have been operating in the region.

There are also reports of diseases unknown to indigenous traditional medicine, as in the case of the uncontacted *Kugapakori Nahua* peoples in the Urubamba valley. In April 1984, during an exploratory phase near the river Camisea, the subsidiary companies of Shell almost caused their extermination from an epidemic of flu.

There is scientific evidence that the contamination of the rivers Corrientes, Samiria, Cocha Pasto, Capahuari, Trompetillo, Tigre, Amazonas, Cocha Monatana, Pastaza and Marañon is directly affecting the indigenous communities in the areas: *Urarinas*, *Muratos*, *Cocamillas* and *Quichuas* who since time immemorial have acquired most of their protein from fishing. In the Pastaza, Corrientes and Tigre rivers there are days when the indigenous peoples have to leave the water to settle in containers so that the green oily film comes to the surface and can be thrown away before using the water that remains.

Roads, airports and base camps are being built as islands of comfort and luxury in the rainforest and for this the oil companies invade and relocate communities with no respect for the property of the indigenous communities. Furthermore, these roads promote spontaneous colonisation with all its well known consequences.

Over the last two years more than three million hectares (130 km²) have been allocated to the oil companies for prospecting and the exploitation of hydrocarbons. To date there are 29 lots under contract which comprise a total area of 13 million hectares. Some lots continue some are still under negotiation and others are already defined as areas of study.

The problem is huge and for this reason 19 indigenous organisations are on alert. It is a global problem which makes us believe that it will dominate events in the Peruvian Amazon for years to come. The loosening of control which one can see happening is becoming a relentless and profound questioning of the collective rights of the indigenous peoples, the majority of whom are recorded as living in conditions of extreme poverty and have among the lowest social indices. The process of modernisation has also collided with indigenous peoples and the exercise of their own citizenship. Many indigenous people do not have civil documents and there are no programmes to change this over and above what the indigenous organisations themselves are doing.

With regard to education, at the margin of the general marginalisation of all Amazonia, the indigenous peoples are being pressured into accepting teachers from other regions with no knowledge of the language or local culture and little respect for the indigenous way of life. From this perspective, education is no longer a means of development and becomes a disgrace and an act of cultural subjection. The educational results are limited, resulting in a negative perception of indigenous students' capacity.

To complete this panorama, we should mention the case of the Ashaninka people, one of the peoples most beaten down by the violence.

According to information in the journal *Voz Indígena Ashaninka* more than 3,800 persons have been murdered or disappeared. Fifty communities have been devastated and abandoned. Fifteen thousand people (a third of the total population) have been displaced from their places of origin. Twenty five thousand have been affected to different degrees. In the incomplete Ashaninka self-census, 689 families are confirmed as still displaced which is a total of 2,884 persons and at least 374 children have lost both parents. The situation of those 'recovered' (who were detained by Sendero Luminoso) is calamitous. Many of the population suffer from psychological traumas, tuberculosis, acute malnutrition, dehydration, anaemia and other diseases. The lives of the Ashaninka people have in many ways suffered huge convulsions and minimum levels of subsistence are still far off.

The government has been providing assistance and survival rations but the seriousness of the situation has outstripped all these palliative measures. At present, Ashaninka organisations are concentrating their efforts on the return of the displaced and the recuperation of self-sufficient production. To do this, their main demand is territorial security which has been threatened by the new invasion processes. Many of the abandoned communities have been occupied by cocaine growers and other migrant colonists with the knowledge (and at times the consent and even help) of local officials. The hurriedly concluded methods with which they announce titles of possession for the colonists have further stimulated the process of occupation of indigenous lands. Applications for reserves, such as that of their traditional territory of Sira, have not been resolved which adds to their relentless occupation.

The present contract for lot 66 to the French company ELF and associates for a million hectares of the most fragile Ashaninka territory (the Ene, Perene, Pangoa and Pichis river areas) opens a new chapter of difficulties for this people who have never been free from oppression in recent years.

In this the International Decade for the Indigenous Peoples of the World, supported by the Peruvian government, the prospects are not very encouraging.

BOLIVIA

The struggle for land and territory in Bolivia continues though with no significant changes in that the territories offered by the previous government have still not been physically demarcated.

The Law of Popular Participation approved by the National Government in 1994, which polarised popular organisations, has offered more possibilities for indigenous peoples' participation in the social and political life of the country. Consequently, all organisations affiliated to the Bolivian Indigenous Confederation (CIDOB) decided to participate directly in the municipal elections in December 1995. However, a severe limitation on popular organisations' participation in the elections, especially the indigenous and campesino organisations, has been their inability to run as independent organisations. This has been serious obstacles in the electoral process because the political parties persist in their traditional style of politics: authoritarianism, paternalism and corruption. Another serious problem has been that not all indigenous people can vote because the majority do not have identity documents. The procedure for obtaining documentation has been slow and is still not completed. According to figures from the indigenous leadership, of the 200,000 indigenous people living in the Department of Santa Cruz, only half of those eligible to vote have identity cards. But in spite of these difficulties, indigenous participation in the elections has been positive, and in Santa Cruz two indigenous mayors were elected and some 20 municipal councils.

These new municipal responsibilities constitute an important challenge for the indigenous leadership, given that they have no experience in managing public affairs.

Meanwhile, territory continues to be the main indigenous demand. CIDOB has demanded that property titles for 64 indigenous communities in Santa Cruz and Beni be handed over but to date there has been no response.

Almost all the indigenous peoples of Bolivia have constant problems with cattle and timber barons some of whom invade and occupy indigenous lands which have been legally recognised.

The Guarani People's Assembly signed an agreement with the government calling for a 'Plan for Action' aimed at solving territorial problems.

BRAZIL

After a year of uncertainty for the indigenous peoples of Brazil the government announced its changes to Decree 22/91 at the beginning of 1996. This decree sets down the administrative procedures for demarcating indigenous territories. The Minister of Justice, Nelson Jobim, made several public declarations at different meetings with indigenous and indigenist bodies in which he defended the urgent need to change the decree because it was unconstitutional.

The minister based his argument on a Direct Act of Unconstitutionality (ADIN) lodged by the Sattin Agropecuaria e Imoveis SA company against the Sete Cerros Indigenous Area which belongs to the *Guarani-Kaoiwa* indigenous peoples, in the state of Mato Grosso do Sul. The Supreme Court was asked to rule that Decree 22/91 was unconstitutional, invoking a reduction in protection because of the lack of a legal means of challenging it. Minister Jobim used his authority to debate the issue and wrote articles in the press affirming that Decree 22/91, such as it was, did not guarantee the legitimacy of land demarcation because it did not take into account the supposed owners of the lands which were declared indigenous.

The minister's arguments were rejected by highly respected lawyers in Brazil, such as professor Dalmo de Abreu Dallari, who, together with the Minister for the Public, stressed the inadequacy of the measure being taken by the Brazilian executive power. In a thesis supported by CIMI (Indigenist Missionary Council) and other indigenist organisations, the lawyer maintained that the challenge is only to the administrative process and not part of the demarcation process which alone confers the right of the indigenous peoples to their lands, a right enshrined in the Brazilian constitution. The professor, supported by CIMI, emphasised that the Union's administrative procedure merely confirms traditional occupation. Both the professor, the Republic's solicitors and renowned Brazilian lawyers claimed that the new decree 1,772/96, published in January, is unconstitutional because it validates ownership titles to indigenous lands which the Brazilian constitution considers void.

This is not the first time that the Brazilian government has used tricks to insert contradictions or used other threats. In 1990 and 1991, President Fernando Collor de Mello tried this tactic during the debate and elaboration of Decree 22. The insertion of a contra-

diction was no more than a facet of neo-liberal indigenist policy aimed to satisfy private interests. "It is a gift to illegal invaders, timber barons and clandestine miners", denounced Dallari.

Different national and international support organisations, indigenist organisations and all the indigenous organisations throughout the country demonstrated against the change to Decree 22/91 but the protests were ignored. In this period there was a rearticulation of the Forum for the Defense of Indigenous Rights, bringing together support organisations with the indigenous peoples and federal deputies claiming the same treatment for other reservations.

The Indigenous Peoples' Struggles

While the National Congress and the Brazilian government were debating how to control indigenous areas, indigenous peoples were carrying out their own demarcation and throwing invaders off their lands. One of the more serious incidents happened in the Maloca de Caraparu where the military police threw the indigenous *Macuxi* (*Roraima*) out and destroyed their houses. In December they suffered from more aggression which resulted in one of the most violent years for the *Macuxi*. According to reports from the *Roraima* Indigenous Council (CIR), *Roraima* state is the national champion of institutionalised violence. Over the last eight years, 12 indigenous people from the Raposa/Serra do Sol Indigenous Area have been murdered and no one has been charged.

But there has also been a victory. In May, after different denunciations by the CIR, Judge Renato Prates revoked the authorisation given to the Brazilian army to occupy the Raposa/Serra do Sol Indigenous Area. The army was accused of abusing their authority against the indigenous people. For almost three months they patrolled the area on the pretext of reducing conflict in the region.

The *Yanomami*, *Macuxi* (*Roraima*), *Guajajara*, *Krikati*, *Guajá* (*Maranon*), *Kaiapo* (*Para*), *Xucuru* from *Ororuba* (*Pernambuco*) and others have also been under constant pressure. The *Aikewar* (*Para*) saw almost 80 per cent of their forests destroyed by fire. In August, the *Ava-Guarani* from *Parana* and in November, the *Guarani* from *Rio Grande do Sul*, demarcated their lands themselves. The case is with the courts. In September, FUNAI located an isolated indigenous group of some six people in the *Corumbiara* region in *Rondonia* state, in the same place where the most violent massacre of rural workers in the country took place last August.

The Lack of Assistance

The lack of an indigenist policy and FUNAI's submissive stance clearly indicate the negligence of Fernando Henrique Cardoso's government towards the indigenous peoples. This is reflected in the total abandonment of the communities, the absence of demarcation and the lack of health and education facilities.

As a result of this planned lack of sanitary facilities in 1995 the death rate in indigenous communities increased reaching 250 cases. Of these, 102 were a result of malaria. There were 14 murders in the same period.

Health was the main reason for concern for the *Yanomami* in 1995. According to the CIR, statistics from the Yanomami District Health Officer of the National Health Foundation, indicated an increase in the mortality coefficient among the Yanomami population. In the first three months of 1995 there were 39 deaths and in the last seven, 2,220 deaths. Cases of oncocercosis were alarming. Between the months of October and December 1995, the Pro-Yanomami Commission (CCPY) and the National Health Foundation (FNS) carried out a pilot project for the control of oncocercosis in 14 Yanomami communities in the Toototobi and Balawau region where it is rife. According to the CCPY 432 out of 539 persons were treated (excluding pregnant women and children). Of those examined, 66.2 per cent were carriers of 'river blindness'. The doctors from the project concluded that to control oncocercosis in the region a permanent global programme of health support for the area was needed.

The Yanomami also suffered from the threat of having their territory decreed invalid through an initiative taken by federal parliamentarians, but which happily did not succeed. In an other assault on indigenous rights, the same members of parliament took advantage of the current constitutional reform to present their changes in the chapter in the Constitution relating to indigenous peoples. One of these attempts was an amendment to stop the demarcation of indigenous lands along the border strip and asked for the decisions over demarcation to be moved to the Legislative Executive, where anti-indigenous interests are greatest.

In September, the Brazilian senate approved bilateral agreements between Brazil and Germany for the use of money for environmental projects. Approximately 30 million Marks are earmarked for demarcating indigenous areas in the Brazilian Amazon

within the Pilot Programme for the Demarcation of Indigenous Lands. Since the publication of Decree 1,775/96, all demarcation has been paralysed and 12 indigenous areas which are part of the Pilot Programme have found their boundaries contested.

PARAGUAY

1995 was marked by poverty for the indigenous peoples of Paraguay. This was a result of not only the precarious conditions in which they live, the destruction of their habitat and relentless pursuit by 'owners' of the lands on which they live, invasions by landless campesinos but also because of problems of malnutrition, tuberculosis and chronic parasite infestations, a deficient and almost complete lack of medical and dental attention in the communities, flooding by rivers, lack of running water, deforestation and natural disasters, as well as many other reasons.

With reference to the indigenous peoples of the Chaco, at least the Boqueron government's announcement at the beginning of the year of the creation of a secretary for indigenous affairs and environment was encouraging. The office will look after the welfare of the indigenous communities in the region in terms of providing running water, distributing seeds and foodstuffs, among other things. 55 per cent of the 29,000 inhabitants of the department of Boqueron belong to different indigenous groups.

Throughout the first half of the year, the flooding of the Paraguay river made the situation difficult for the riverine people. The newspapers described the situation in 14 communities in the Alto Paraguay and 9 in the department of Concepcion as dramatic. Some 3,000 indigenous people were seriously affected but only one of the communities received help from the National Emergency Committee. The flooding created serious problems and the flood-water destroyed crops, houses and left the indigenous people with no possibility of hunting.

Over this period other incidents aggravated the situation in several indigenous communities. They were subject to constant incidents, invasions, murders and robberies by police officials, ranchers, campesinos and/or people from outside the area. The following were some of the most significant cases:

- The *Mbya Guaraní* lands in Ypau were invaded and nothing was done at the government level. The problem affected members of the National Indigenous Institute (INDI) because, according to denunciations by lumberers from the region, the perpetrators had permission from INDI to take wood. On several previous occasions campesinos with support from political officials and high government officials had invaded land. The relevant authorities have done nothing about this situation.
- The *Mbya* community of Amambay-Culatrillo (Department of Caaguazú) was invaded several times by campesinos who said they had authorisation from the Institute of Rural Welfare (IBR) to be there and proceeded to fell the forest. The denunciations made against them state that they also fired at the houses to frighten the community and force them to abandon the lands. In spite of interventions by the National Police to move the campesinos on, they continued to harass and clear the area under the indifferent gaze of the relevant authorities.
- Indigenous *Ava Guaraní* from Corpus Christi (Department of Canindeyú) denounced police officers who demolished and burned 15 houses as part of a campaign of intimidation to force them off the land they occupy. This new attack on the *Ava Guaraní* is one more in a long series of attacks from which they suffered throughout 1994. And no measures were taken to protect them from abuse of police power or persecution from Brazilians, the supposed owners of the reclaimed lands.
- *Pai Tavytera* leaders from the area of Mbaracay, Capitan Bado District (Amambay), denounced the murder of 62-year old Victorino Barrios on 21 February 1995, to the National Congress. According to reports of the testimonies, two men on horseback fired at the man, then attacked him with a machete and dragged him into the forest where he was left. For months now the indigenous people from this community have been suffering from a campaign of hostage-taking by the Brazilian 'owners' of the lands who want to force the indigenous people to abandon their traditional territory. According to the leaders, these owners are morally responsible for the murders. After hearing about the incident, INDI decided to suspend negotiations with the owners and demanded the expropriation of 1,000

hectares for the Pai Tavytera community. However, it is also important that the appropriate authorities investigate and punish those responsible for the crime.

- Part of the Kayawe Atog Kelasma community of the *Enxet* people was settled on the Quebracho farm. But the farm was sold and the new owner, Carlos Campo Riera, fired all the indigenous workers without any compensation and then threw them out. Immediately afterwards he burned all the indigenous houses on his farm.
- The Enxet communities of Keylyephapopyet and Lamenxay in the Chaco have denounced the permanent violation of the regulation which prohibits innovations being carried out on the lands of the ranchers Jorge Raul Abente and Pelayo Abente. This violation comprised the opening up of roads, erecting new fencing, constructing corrals for cattle, the building of dikes, etc. These acts were duly pointed out by the State Fiscal General himself in mid-1995 but he has not done enough to stop these innovations which seriously affect the communities' interests. Similarly, the State Fiscal General also verified that the regulation prohibiting innovations on lands claimed by the Maktlawaiya community by the owner of the lands, Eliodoro Cohene were being violated. The latter has cleared large areas of the land which the indigenous people have applied for; in this case the Fiscal has still not made a pronouncement.

Other problems highlight the impotence of the Enxet communities of Yake Axa, Yesamathala and Esmeralda, which lodged claims for 15,000, 3,7539 and 4,000 hectares respectively, faced with long delays in the administrative process. Deliberate delays in carrying out the ocular inspection, which is a necessary step in the negotiation of lands, illustrate the Institute of Rural Welfare's veiled complicity with the ranchers who are the sole beneficiaries from, in some cases, the paralysation of the requested inspections and, in others, a delay of nearly three years. Similarly, in October 1995, Parliament rejected a petition for land expropriation, putting Paraguayan-Japanese cooperation before the constitutional rights of the Petrero Guarani communities. The former are in possession of the lands and titles today in the name of JICA.

Education

In terms of education, there have been some moves by indigenous peoples themselves to improve education within indigenous communities, particularly the training of indigenous teachers. They demanded a budget for the reform of indigenous education and the establishment of a department of education and an Indigenous Education Council with the participation of indigenous people and indigenistas in important decisions concerning educational reform. Other demands presented by indigenous teachers to the Ministry of Education were designing programmes for and by each ethnic group, respect for the culture of each people and schooling which takes the traditional education system into account.

It is notable that in Copenhagen the Director General of UNESCO, Frederico Mayer, referred to the situation of the indigenous peoples of Paraguay in the following terms:

"I am worried about the Ministry of Education's delay in implementing an indigenous education reform. This gives the impression that in certain official spheres the solemn principles of the rights of the indigenous peoples promulgated in the Paraguayan National Constitution have still not been taken to heart."

The current education system dates from 1957 and is totally obsolete. Paraguayan experiences of an indigenous education which takes traditional education into account and supports the indigenous culture in its bilingual texts have only been on a very small scale and always thanks to private initiatives, and at times the fruits of efforts by missionaries or indigenists. The state has not taken one single initiative in this area.

The process of constituting and consolidating larger inter and intra ethnic organisational spaces has been a very important process for some indigenous peoples. For example, there have been a series of meetings of indigenous leaders from different organisations and coordinations to analyse and debate issues of communal interest. Some of these have been European Union projects, electrification of the Chaco, Hidrovia and the creation of the Indigenous Development Fund. These undertakings are to be implemented in a region where the majority of the population is indigenous - and with the exception of the Indigenous Fund - those responsible nationally and internationally continue to marginalise those directly affected and do not provide space for analysis or official debate.

Meanwhile, the leaders have taken action which has had repercussions in the press and public opinion. At different opportunities leaders and representatives of the Enxet, Toba Qom and *Nivacle* have organised visits, meetings and demonstrations outside the National Congress to claim their territorial rights and to demand that INDI's requests related to legalisation of indigenous lands are not cut out.

Other Recent Developments

The support given to the indigenous peoples of Paraguay by indigenist and European ecological organisations on land and human rights issues has had a big impact in the national and international press. These organisations have voiced their concern to the Paraguayan government, particularly concerning Enxet and *Ayoreo-Totobiesode* land claims. Similarly, they provided support and cooperation so that the Enxet representative, Marcelino Lopez, could participate in the Working Group on Indigenous Populations at the UN in Geneva. His participation was well publicised in the local media.

Concerning the Sustainable Development Project for the Paraguayan Chaco, the publication of a note sent by the British Minister, Baroness Chalker, to the British Conservative Member of Parliament, Jacques Arnold, was decisive. This note indicated that several member states were opposed to going further than the preparatory studies to be financed in the initial phase of the project, at least until preconditions are met, that is until the Paraguayan government resolves the indigenous peoples' land claims before the beginning of the second operative stage of the project. Nevertheless, the indigenous communities have still not been consulted on the issue or shown the text of the project agreement signed between the Paraguayan government and the EU.

After months of waiting, President Wasmosy finally signed the decree which incorporated an adviser and other supplicant of the Paraguayan Indigenous Institute (INDI), nominated to the position by the Private Indigenist Organisations Forum (FEPI) onto the Council. This act was extremely significant for the official state indigenist policy which follows a line calling for renovation, a policy which the local press continually says inefficient and corrupt.

Private organisations have been working to ensure that INDI orients its work to the historically unfulfilled parameters of the

Paraguayan legislation, which is very positive towards the indigenous peoples. Nevertheless, the complex reality of INDI and the situation in the country as a whole are not the most propitious for change. INDI has been, and continues to be, an institution in the clutches of the governing party's political clientelism which provides work for its political supporters who are not committed to indigenous peoples and are totally ignorant of the issues. To this is also the Directive Council's party allegiances; the negative influence of the officials' unions on a policy of intimidation of INDI, as well as the presence of urban indigenous people who consider that they receive salaries for simply being indigenous - all these affect the process so that few advances are made. However, in a positive move, the president of INDI has sought support from technical organisations, negotiating the transition process like a politician. This is how a national plan for the indigenous communities was conceived, which sets down the formal bases for the restructuring of the institution. Similarly, the institutions grouped together in FEPI have coordinated their work and, with the support of the State Fiscal General and the Christian churches in the country, have presented a budget for inclusion in the State Expenses Law for funds to resolve land claims which have been pending since 1981, the year in which INDI was created.

The almost US\$50,000,000 which INDI asked from Parliament to pay the compensation claims arising from titling indigenous lands was at odds with central government's budget of US\$7,500,000 for the same item. Parliament finally agreed a budget of approximately US\$15,000,000, committing itself orally to increasing the amount gradually until 1998.

This was a very fruitful period for land claims and INDI acquired 98,000 of the 600,000 hectares reclaimed by the Ayoreo Totobiegosode in the Chaco region; 35,000 of the 163,000 hectares reclaimed by the Enxet people and lands for the *Tomarajo* people. In the Western region, 995 hectares were reclaimed for the Pai Tavytera; some 2,467 hectares for the Ava Guarani and 192 hectares for the Myba, many of these after years of struggling to legalise poor quality areas of their traditional territories.

There are some doubts to the suitability of some of the land acquisitions and in some cases the price paid was higher than what the FEPI considered just. For this reason it is a matter of urgency that responsible government bodies oversee the correct use of the

National budget and carry out monitoring and control which will ensure a national and transparent management of the funds.

ARGENTINA

The recognition of indigenous rights in the new national Constitution of 1994 guarantees, among other things, "respect for the identity (of indigenous peoples)...and communal possession and property of the lands which they traditionally occupy" (Article 75, inc. 17). This marks the beginning of a new phase in the indigenous peoples' arduous road to achieving recognition and respect. Already denial of the existence of an important indigenous population of some half a million persons in Argentina is inconceivable, as had been the case until very recently. The media is aware of the difficult conditions in which the indigenous peoples live and the different claims made by indigenous communities; they are already making newspaper, radio and television news.

In spite of this basic step forward in public awareness, the political response to specific claims shows an alarming lack of understanding. A typical example of this lack of comprehension was the so-called 'Cascos Blancos' programme carried out in the *Wichi* and *Chorote* communities of Pilcomayo Salteno area last year. It was supposedly a pilot programme in the 'fight against hunger and poverty', under the responsibility of President Carlos Menem himself and aimed at using the 'Indians' to pilot a new social assistance model intended to be exported to other parts of the world where there are socio-economic emergencies. In practice, it did nothing more than distribute some clothes and foreign food, hurriedly plant some gardens to show off at the closing ceremony presided over by the Presidents of Argentina, Bolivia and Paraguay and to offer some medical attention over the space of a few days. As a spokesperson for the programme stated, "it was concerned with combatting hunger and poverty by means of introducing new cultural practices because only through the assimilation of 'sanitised' communities is it thought they will be able to improve their subsistence". Evidently, this official was not aware that the new National Constitution guarantees respect for indigenous peoples' own identities, while the officials turned a deaf ear to what the indigenous peoples themselves had to say through their Association of Aboriginal Communities 'Thaka Honhat' which demanded, not these

superficial measures designed to give fleeting support, but titles to their lands.

The almost 6,000 indigenous people who belong to this Association are continuing a long struggle for the recognition of their property rights to some 400,000 hectares of legal lands (within the Legal Lots 55 and 14) in the far north of the Province of Salta. Successive provincial governments have refused to take the necessary steps to recognise the rights of 33 communities, members of the Association, to the lands which they traditionally occupy. These communities live in a critical situation due to the occupation of their lands since the beginning of this century by cattle ranchers who let their cattle wander freely, thus unleashing a process of environmental devastation. This is the reason for the destruction of a large part of the natural resources on which the indigenous peoples traditionally depend for their subsistence. Recently this has increased the tension between the two groups, leading to threats against indigenous peoples while the cattle ranchers continue to fence off lands and deny the indigenous peoples access to them.

The situation of these communities has become even more precarious since the construction of an international bridge over the Pilcomayo river close to some of the largest communities in the area, Nop'ok 'Wet, (La Paz in Spanish). Plans for building a border town ignore the preexistence of the indigenous peoples of the area and access routes pass right through the territory being reclaimed by Thaka Honhat. This project has to be seen within the framework of plans for regional integration, especially of the Mercosur countries, and in this case it is proposed to unite not only Northwest Argentina with Paraguay but also Brazil with Chile. In spite of support from many national and international institutions the indigenous peoples' demand for their lands, and despite two reports to the UN Commission of Human Rights denouncing the critical situation facing the indigenous peoples, the Salta Government is still reluctant to fulfill its legal obligations.

The indigenous communities along the banks of the Pilcomayo river in the provinces of Salta and Formosa, are at the present time also faced with another threat to their survival. Over the course of several decades the Pilcomayo river has been changing its channel because of the enormous quantities of sediment which it brings down from the Andes mountains each year and deposits on the plains of the Chaco. With the silting up of the river bed, the river has

been moving several kilometres each year, forming swamps from the flood water. In an attempt to stop this process, the governments of Paraguay and Argentina devised a project to divert the river water into two channels, one on each side which, in theory, would also carry the sediments and deposit them far from the river channel. Last year almost all the water flowed through the Paraguay side, leaving the communities of Formosa without water and without fish. Now, with support from the European Union and the Plata Basin Financial Fund, the two governments propose to construct a intercepting dike some 25 kilometres long, located some 40 kms below the actual channels. The consequences of this work for the indigenous communities situated on the banks of the river, not only in Formosa and Salta but also in Paraguay and Bolivia (amounting to some 15,000 persons) are unknown. The majority of the communities are most concerned about the effects on the migration of the fish which are one of their main sources of subsistence. In spite of repeated petitions by the region's indigenous organisations that they be consulted, it is clear to all that the authorities are totally ignorant of the National Constitution which ensures the indigenous peoples' "participation in developments related to their natural resources and other interests which affect them" (Article 75, inc.17). On the contrary, the national gendarme has orders to monitor the activities of the indigenous organisations throughout the area and they are allowing rumours to spread that the 'Indians' from the three bordering countries are wanting to create a separate state - a totally false accusation.

It should be mentioned that the need among the different indigenous peoples of the three countries to work together has only arisen recently precisely because of international projects which are affecting all the inhabitants of the Pilcomayo river. Over and above the Nop'ok 'Wet bridge, the canals and the intercepting dike were all carried out without consulting the indigenous peoples affected and now there are proposals to build a dam across the Pilcomayo 15 kms. northeast of the Villa Montes village in Bolivia. It will be 160m high and inundate 36,850 hectares. It is argued that this dam will stabilise the Pilcomayo channel, reducing the sedimentation, but the economic motives are electricity generation and irrigation for intensive cultivation in each of the three countries. In fact, it would dislocate 22 *Guarani* communities from the catchment area (in Bolivia) and drain all water from the channel for

several years, most probably also the fish on which many *Wichi*, *Toba*, *Chorote* and *Nivakle* communities who live along the river in Bolivia, Argentina and Paraguay depend. Alerted to the dangers of this project, indigenous representatives from the three countries met in Yacuiba, Bolivia, in November 1995 to hear the technical reports and to state their worries.

The kind of reaction referred to above, childish, Machiavellian, is repeated all around the country. In the south where the *Mapuches* have a much stronger tradition of organising themselves within the Argentinean state, stronger than that of the *Chaco* peoples, the case of the Pulmari Interstate Corporation in the province of Neuquen has been subject to the same political attitude which denies the indigenous peoples the rights established in the National Constitution. This Corporation was created some seven years ago to administer 11,000 hectares of State land for the benefit of the 6 Mapuche communities which live there. But because of a complete lack of benefits, the lack of real participation in the running of the Corporation, its publicly recognised corruption and the fact that the lands are really the traditional lands of the Mapuche, the indigenous peoples peacefully occupied the buildings in May last year. Subsequently, several indigenous leaders were charged with illegally taking over the buildings, including leaders from the Coordination of Mapuche Organisations - Tain Kinegatuam - which supported the occupation. In December, the Federal Judge ordered the National Gendarme to remove 'temporary occupants' and during the first months of 1996 this has fuelled a public debate in which the Coordination has been accused of encouraging the formation of a state within the state. In reality, what the communities are asking for is the recognition of their right to their lands, control of their natural resources and the right to manage their own internal affairs. Evidently, there is an unfounded fear of a separatist movement, giving rise to comparisons with Chiapas and questioning the Coordination's international links.

This fear was well expressed by a Neuquen legislator in his evidence to a commission of the Provincial Legislature which was studying the Pulmari case. He said "The time has arrived to develop a real policy of integration and containment for the Mapuches in the medium and long term". Following this line, it has been proposed to implement a 'special' education system with the aim of accentuating a feeling of being Argentinean among Mapuche chil-

dren. Evidently, the authorities do not realise that it is precisely these sensitive and repressive attitudes which force the indigenous organisations to turn to international bodies in search of help. The outcome of this case was that through efforts made by the Mapuche themselves at the end of March a commission of international observers arrived to familiarise themselves with the dispute over the Pulmari lands and with another two cases of ecological damage and possession of natural resources which affect the two Mapuche communities in Neuquen.

There is a general concern at the international level for the situation of the indigenous peoples of Argentina which came to a head last February in an urgent European Parliamentary resolution which called upon the Argentinean state authorities to find mechanisms which will lead to a resolution of the territorial disputes between the State and the indigenous communities.

Over and above the repressive response, social assistance was simply stopped with the aim of cooling off areas of conflict and producing conformity. And so, in Pulmari, a Malawian project is being developed but with no indigenous participation. In the north, in the Department Ramon Lista, Formosa province, an \$8 million project is about to be implemented with 64 per cent of the money coming from the European Union in the area affected by the problems with the Pilcomayo river. Certainly this project considers important factors such as how to improve the availability of the water, but the project has been designed in an office a long way away, without the participation of the affected communities who have already voiced their disapproval of it and have fought for an alternative proposal.

CHILE

The Chilean state is characterised by the nature of its institutions which are uniform, dominating and unilateral in their approach to the indigenous peoples and their rights. On the whole, they have tried to deny the existence of indigenous peoples. The military regime from 1973 to 1990 portrays the Chilean state very eloquently, a regime which decreed Law 2568 for the dividing up of communal lands and very clearly stated: "the lands which are divided no longer remain indigenous nor do their occupants". Moreover, a member or occupant of a community only has to ask for the lands to be divided up for this to be carried out. This legal

process was also called the "liquidation of the communities" and was one of many laws which had a negative impact on the indigenous peoples, illustrative of the repressive and homogenising character of the Chilean state and its legal procedures.

In Chile, constitutional recognition of indigenous peoples and their rights is beyond any government logic, while the right to participate in decision-making is reserved for a political elite, reinforced in the political constitution of 1980s. This constitution was established by a military regime with an ideology in which there were no cultural differences or rights for indigenous peoples. The constitution signalled that "in Chile there are only Chileans and the official language is Spanish". The recognition of the indigenous peoples was vetoed, a situation which has existed from the first political constitutions which gave birth to the Chilean state. Nevertheless, this reality is challenged when the same governments which rejected the existence of indigenous peoples also pass laws and decrees to divide up indigenous lands or move indigenous peoples off land under the pretext of progress, a term which is changed to suit the historical political reality of the time. Today this terminology has been substituted with the concept of development and modernism.

If we look for historical antecedents for laws which have recognised the rights of the indigenous peoples since the construction of the Chilean state, we find them very scarce. Similarly, there were very few indigenist laws passed in the last three decades. There is only Law 17729 and recently Law 19253 approved in 1993 by the government of political reconciliation. We will analyse some of the most important aspects of the latter in terms of its aims and because it is in force today.

The Free Trade Agreement - NAFTA and Indigenous Peoples

The Chilean government saw 1995 as a decisive year for its entry into the Free Trade Agreement (NAFTA). This decision does not appear to have had anything to do with the indigenous peoples and their rights. Nevertheless, after an in-depth analysis we can see that, in effect, the multilateral economic agreements being promoted by the governments have a negative impact on the rights of indigenous peoples in legal, economic, political and cultural terms.

The multilateral economic agreements are, by their nature and their aims, a new form of colonialism for the indigenous peoples.

However, these agreements are not of a violent nature or applied by force but these very characteristics make it more difficult to assess their immediate impacts, and as such are more effective than any violent plundering. After becoming part of NAFTA, national laws began to be modified as they were adjusted to the interests of NAFTA. From an internal point of view, national laws gradually begin to lose their strength and finally the convention which regulates NAFTA will prevail. The most clear example is the case of Mexico where the government had to modify the political constitution in relation to land rights, because communal lands became liable to be divided up. This change was in line with the demands of the economic agreements which impose neo-liberal policies. Faced with changes which weaken national laws, we are entering into open contradiction with the rights aspired to by indigenous peoples. In the legal field, many indigenous peoples are increasingly mobilising for the recognition of their rights. If these economic agreements continue to undermine national laws and constitutions, then all constitutional recognition which is achieved in the future may lose its force with negative results for indigenous peoples.

The indigenous peoples are affirming their ancestral rights to the natural resources within their territories. The economic agreements directly affect these legitimate rights because they are characterised by the accumulation of wealth based in the exploitation of natural resources.

A *Mapuche* Conference was held in Temuco with the aim of identifying the nature and aims of these multilateral economic agreements, as well as their impact on the Mapuche culture. After establishing their implications for the future of indigenous peoples, the indigenous peoples began a national and international campaign for the inclusion of a clause guaranteeing the rights of the indigenous peoples in the NAFTA.

At the international level, a series of meetings were held with US and Canadian senators. Given that this was possible in countries which are prime movers behind NAFTA, it was noticeable that in Chile neither the Chilean people nor the indigenous peoples have any participation. In fact, NAFTA is only considered in terms of the interests of big business and the government. The meeting served to disseminate knowledge about the existence of the indigenous peoples, their lack of participation, the non-conformity of NAFTA and the lack of guarantees for indigenous rights.

Threats of Removal and Cultural Extermination

In April, the community of Juan Currin, in the commune of Temuco, province of Cautin, began to organise themselves to prevent the implementation of a court order for their removal. Faced with this threat, they held a series of meetings with different regional government bodies, had talks with the governor, the mayor of the IX Region and finally with Conadi (Conadi was created by the Indigenous Law as the National Corporation for Indigenous Development). The reason for this lobbying was to halt the eviction of indigenous people from the last land left to them as a result of continual illegal land sequestration, the reestablishing of their cemetery where their immediate family lay and for recognition of the lands as belonging to the community of Juan Currin. The most important objective at this point was to prevent their eviction. Conadi's first responsibility was to attend to this, according to its constitution based in Indigenist law 19253. Faced with indecision on the part of Conadi to find a solution to the eviction, the community decided to pressure Conadi by occupying its headquarters. The occupation lasted three days and on the fourth day the Director of Conadi asked for support from the police to remove them. They moved in at 5 am and 14 persons were detained, among them seven children aged between 3 and 11 years. The threat of eviction continues to hang over the community. In this case, the interests of a local businessman who had usurped the community's lands were being compromised. On the other hand, the government unilaterally declared the community's territory an urban area, ignorant of the character of the Mapuche community, its lands and its owners.

European Union and New Zealand Transnational Forestry Companies Occupy Mapuche Lands

In May 1995, seven Mapuche communities from the commune of Collipulli, province of Malleco, blocked access to Simpson Paper forestry company in a coordinated action after it had acquired lands and arrived with high technology machinery to carry out the forestation of the lands. The communities coordinated a blockade against the company because the lands under dispute had been awarded by the Chilean state to the Mapuche at the beginning of the 20th century and which had been overrun by force and violence by individuals not belonging to the community. When the company heard of the community's decision it asked for back up from the

police in order to change the participants' minds. However, faced with the Mapuche's firm decision, a period of dialogue between the company representatives and the communities was set up. Afterwards, the communities agreed with regional administration that they should apply to Conadi to facilitate the paper work and look for funds with which to buy the disputed lands.

In June, five communities from the same commune and province, entered into a serious conflict over land with Minico, a forestry company of New Zealand origin and finance. The communities blocked the company from taking possession and foresting the lands. This action met with the same response as the former, and the police were brought in. However, faced with the impossibility of moving the Mapuche, the company withdrew its machinery but later brought in a busload of non-indigenous people to begin the forestation, a move which the communities also rejected. The communities brought the case to the Mayor of the IX Region, who directed them again to Conadi to apply for the funding which the State offered as a formula for solving the land conflicts. In both cases, the state body, Conadi, has left the communities in a situation where they have the possibility of buying their lands.

Conadi's Symbolic Elections

In May, Conadi held symbolic elections to gain acceptance from the indigenous peoples. Conadi was created by the Indigenous Law as the National Corporation for Indigenous Development (CONADI). The elections showed clearly the ideological and political subordination to which the indigenous peoples had been subject through indigenous legislation 19253. According to this Law, the President of the Republic names the director and two subdirectors of Conadi. The key requirement for these jobs is that the postholders must enjoy the complete confidence of the President of the Republic; the nomination is a party political decision. This is the very arbitrary way in which the Chilean government establishes relations with the indigenous peoples; it completely ignores rights of participation in decision making and rights to autonomy and self-determination.

The Law recognises the possibility of establishing a counterpart. And with this aim the government organised elections to constitute a Conadi Council where the number of voters is not a determining issue, whereas partisan negotiations are. Conadi, as an extension of the Chilean state's control over the indigenous peoples, has turned

into the best institutional instrument for indigenous subordination.

The government, through Conadi, continues to commit economic resources for the purchase of lands through the Land Fund which was established by the Indigenous Law. In this system a subsidiary is authorised by the state to support an indigenous person or a community to formulate their petition to Conadi. This formula is the most efficient way for Mapuches from the same community to buy land. The purchase of the lands between a Chilean landowner and an indigenous person has not been easy because everything rests with the goodwill of the person selling. Moreover, there is open rejection of any indigenous person, and a lack of willingness to enter into relations with indigenous people interested in buying the very lands which the seller has usurped.

Meeting of the Presidents on Mapuche Territory

A Presidential Summit of Latin America state governments was held from the 14-16 October 1995 in the city of Bariloche, Argentina. The themes discussed were: Latin American integration, education, the Mexican crisis and Cuba. Given that the conference was carried out on Mapuche territory today occupied by the Argentinean state, the Council of All the Lands and the coordination of Mapuche organisations of Argentina, Tain Kineguetuam, met together in Bariloche with the intention of presenting their point of view on the political and economic agreements which the governments were adopting at the regional level. The Mapuche organisations agreed to present a document. But unable to do this because of a huge political fence, they broadcast a declaration which stated:

"We express our concern to the consecutive meetings being held on the continent in which a series of decisions as being concluded which directly affect the rights, culture and future of the Indigenous Peoples. Any multilateral political and economic agreement referring to integration, development and social justice promoted by the States ought to include the Indigenous Peoples and their rights. Justice, liberty, democracy and participation with regard to the Indigenous Peoples at a continental level continues to be a challenge still to be resolved by the governments which have not shown sufficient openness with Indigenous Peoples, their institutions continue to be uninformed by a real and effective advance in the recognition of indigenous rights".

Two Roads to be Built on Mapuche Lands

During 1995 it was announced that two roads would cross Mapuche lands. The coastal road is already being built and aims to unite the cities of Concepcion and Valdivia, that is, the VIII, IX and X Regions. At present, the road building has entered *Lafqueche* communities of the Isle of Huapi-Mapuche del Mar. This territory is the most densely inhabited Mapuche area and the communities speak and maintain Mapudugun - the Language of the Earth - and have a thriving Mapuche architecture. To ensure that the road continues its course the regional authorities, together with Conadi, have spent a lot of time convincing the communities that the road will bring them benefits. In December all the Ministerial Secretaries of the region directed their efforts to suggest that the communities are grouped together in a shanty town. Faced with this threat, the communities have begun to organise themselves to reject the proposals.

At the end of 1995, another project was made public, known as the Temuco By Pass which consists of the construction of a road which by-passes the centre of Temuco, the capital town with largest the Mapuche presence in the country. The 22 communities which will be affected led a public demonstration on the 5 December against the project.

The reasons which the government cite in favour of the roads is that they will contribute to regional tourism, to development and modernism. On this issue the communities have very serious doubts concerning the negative implications which modernism has had for the development of the Mapuche culture. The Maquehue airport, which is located in the heart of Mapuche communities, was built in its time under the pretext of progress. However, the Mapuche communities have not been beneficiaries of this progress and development; on the contrary, it has increased the usurpation of land and economic poverty.

The road ought not to be continued being built because the Indigenous Law of the Chilean state declares that the few lands which remain to the communities are inalienable. From the moment that these two roads cross Mapuche lands they will be in clear violation of the indigenous law. The final uncertainty will be whether the Indigenous Law or the economic interests based in the roads prevails.

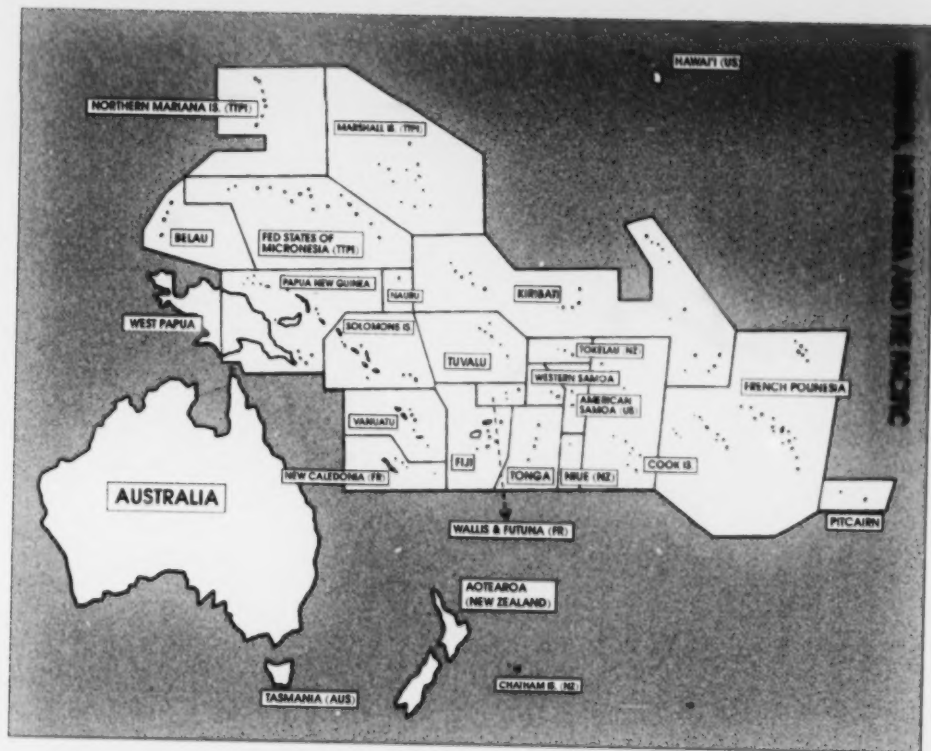
Sentence Against 140 Mapuche for Seizing Land

The Mapuche communities which had tried to recover seized lands, were sentenced by the Ministry in Vista and then confirmed by the Court of Appeal in Temuco. Firmly convinced that they had not committed any crime, the communities appealed to the Supreme Courts.

The case was heard on the 19 March in the Supreme Court which again confirmed the charge of 541 days for illicit association and a fine of 10 living salaries (US\$150) for each of those who seized lands. Those affected presented a denunciation to the Inter-American Commission for Human Rights. This is the first indigenous case in Chile to be taken to an international tribunal concerning a denunciation against the government for a violation of indigenous rights.

Notes:

1. Lorene Flaming, *An Economic Analysis of the Timber Industry in Guyana: Prospects for Strengthening State Capacity and Private Incentives for Sustainable Forest Management*. Environment Department, World Bank, Washington, 25 September 1995.
2. David Frood and Larry Sanders, *Lean and Mean: the forest labyrinth of Ken Buchanan*. Report for the Canadian Paperworkers Union, 25 February 1992.



THE PACIFIC AND AUSTRALIA

THE PACIFIC

IWGIA is currently updating its Pacific network to supply more detailed information on developments pertaining to the indigenous peoples and nations of the Pacific as well as supporting their struggles against oppression. What follows is an outline of a few general trends in the development of the indigenous situation and rights.

The United Nations Decolonization Committee held a Pacific Regional seminar in Port Moresby, in Papua New Guinea, June 12-14, 1996. The purpose was to assess the degree of self-determination by the year 2000 of non-self-governing territories. In the Pacific region, the so-called 'Committee of 24' oversees the processes towards decolonization in Kanaky (a French so-called overseas territory with a very troubled and discouraging decolonization history), Tokelau (a New Zealand territory governed from Apia in Western Sāmoa), East Timor (a Portuguese possession) and the American unincorporated territories of American Sāmoa (unorganized unincorporated territory, that is: Sāmoa does not have a constitution recognized by the United States) and Guam (on its way to American Commonwealth status).

The International Decade for the Eradication of Colonialism is ending in the year 2000, and especially France, Britain and the United States (compare with the above list of nations under decolonization) have called for an end to the Committee's work, arguing that there is no longer much work to be done.

The situations in Tahiti (a French colony and 'nuclear playground') and Bougainville (which wants to be independent of Papua New Guinea), however, raises examples that can be said to illustrate two different types of colonies showing that there is still much work to be done: the 'external' colonies of the old Western colonial powers and the 'internal' colonies of nationstates, including many indigenous peoples.

Tahiti, Marquesas, Austral Islands, Gambier Islands and Tuamotu each of them one or more Pacific Island nations, are all part of French Polynesia, an overseas territory of the French Republic, claimed to be

part of France however somewhat far removed. Also the 15,000 inhabitants of Wallis/Futuna are French citizens, ruled locally by a French administrator, heading a council consisting of himself and three kings, from each of the three kingdoms of the two islands.

Rapanui is a Chilean province, Pitcairn Island a British colony and Norfolk Islands part of Australia.

Northern Marianas is a US Commonwealth, Midway, Wake, Johnston and other island groups are unincorporated territories directly under US government administration. Marshall Islands and the Federated States of Micronesia are semi- autonomous in free association with the United States. Hawai'i is, from a Pacific point of view, also incorporated into the US. Belau is now an independent nation and, since December 1994, the 185th member state of the United Nations. It took fourteen votes (including on the constitutions) to achieve independence from and a compact of free association with the United States, because of a nuclear free provision in the Belau constitution.

Cook Islands and Niue are self-governing in free association with New Zealand. This form for free association is different from the above, because a change in the local constitution is sufficient to sever the relations with the former colonial power. Also many *Maori* consider themselves part of a nation eligible for decolonization. At a recent hui (gathering) of more than 1500 *Maori* people from throughout Aotearoa (New Zealand), representatives asked for constitutional changes based on *Maori* status as an independent people subject to colonization.

In general, Pacific Island nations under decolonization or recently decolonized are facing serious economical crises as the funding that comes with the (partial) withdrawal of the colonial powers are being gradually reduced. Alternatives such as logging, mining, tourism and fishing industries most often seem to benefit the foreign investors and deplete the resources of the islands.

The question of control over land and types of land tenure continue to be one of major importance to most Pacific Island nations. In Aotearoa, individual settlements relating to the Waitangi Treaty are depleting the funds and setting bad precedence for future 'settlements' by excluding conservation lands (one third of the country) from the agreements. Most tribal claims include of course large areas of conservation lands. In the meantime, *Maori* continue to reoccupy their ancestral lands, and discuss *Maori* rights and sovereignty.

This is echoed in Tahiti. The French nuclear tests' 'Grande Finale' in 1995-96 in Moruroa and Fangataufa of almost 200 tests since 1966 has

directed the world's attention to the situation of the people in Tahiti. Forty-five of the nuclear devices were exploded in the air, the rest in boreholes drilled under the coral atoll or into the lagoon. Scientists predict leakage of radioactive waste from the underground test sites to the surrounding waters and air. Even though health records on Tahitians exposed to radiation are kept secret, it is known that epidemic-like outbreaks in surrounding communities have already resulted from the testing, with symptoms including damage to the nervous system, paralysis, impaired vision and increased cancer rates, particularly among Tahitians. Eating of fish has been prohibited, but as a civilian worker testified in 1990: "It's still forbidden to fish at Moruroa, but you can't stop Polynesians from eating fish" (quoted from Ka Mana o Ka Āina 1995).

The tragedy of nuclear radiation exposure in the Pacific is clearly documented by the people of the Marshall Islands. The radiation exposure experienced by the people of Bikini, Rongelap, Uterik and other atolls has brought great suffering and death to many. Severe health problems continue to plague these people generations later. Thyroid tumors and many kinds of cancer, including leukemia, miscarriages, and birth defects, resulting from nuclear radiation exposure, are everyday experiences in the lives of the Marshallese people as a result of atmospheric testing by the US from 1946 to 1958. The recent findings of Japanese doctors that forty per cent of the Rongelap Islanders may have cancer has greatly alarmed the people of the Marshall Islands and increased the number of claims filed before the Nuclear Claims Tribunal, but have not prevented the prime minister from proposing to use their 'radioactive atolls' (which cannot be used for any other purpose for 'ten thousand years') as an international nuclear dump thereby raising big money for the government. The local councils and islanders have overwhelmingly rejected the suggestion.

The question of human rights of the indigenous peoples of the Pacific has been actualized by the French nuclear testing, but also by the patenting by US government agencies of human T-cell lines of the *Hagahai* (people of the Madang Province of Papua New Guinea) and of a woman from the Marovo Lagoon and a man from Guadalcanal Province of Solomon Islands (see *Indigenous Affairs* 1995(4):8-13).

In examination of the situation in the Pacific, as many other places, rights of indigenous peoples blend with rights of nations. But important influential nationstates, member states of the United Nations, are reluctant to acknowledge the need for decolonization within the (often arbitrary) borders of the nation states, relegating this matter to internal affairs

and not considering it an international concern needing a UN Committee's attention. This is related to the reluctance to accept collective rights for indigenous groups as peoples, as it is becoming still more clear in the deliberations of the special open-ended working group under the Human Rights Commission to elaborate the Draft Declaration of the Rights of the Indigenous Peoples, which had its first meeting in November 1995.

HAWAI'I

For many *Kānaka Maoli* (the indigenous people of Hawai'i), 1995-96 has been a year marked by the dealings of the state-created Hawai'i Sovereignty Elections Council (HSEC) whether for or against its project. In spite of delays and strong opposition among *Kānaka Maoli*, many of them leaders in the sovereignty movement, the members of the council, mostly appointed by the Governor, are moving ahead to send out ballots to the voters (people who claim Hawaiian ancestry) with the question: "Shall the Hawaiian people elect delegates to propose a Native Hawaiian government?" A broad-based Coalition to Stop the State-Sponsored Plebiscite strongly encourage a boycott of the "native Hawaiian vote", which after criticism stressing the international legal implications now is the term used by the HSEC instead of "plebiscite" (see *The Indigenous World* 1994-95:101-02). But according to well respected international lawyers, this change of name does not change the character of the vote: It is a referendum which can be interpreted in international law to mean that the *Kānaka Maoli* voluntarily have relinquished their right to sovereignty. This right was for the first time acknowledged by the United States government in the Apology Resolution of 1993 (see *The Indigenous World* 1993-94:78-81). A well-known international organization is coming to Hawai'i in June 1996, to investigate the legality of the vote.

In the meantime opponents of the vote are seeking other ways of moving towards sovereignty on a people's basis. A consensus building and long-term effort in education and planning, and a coming together of many different groups, has been initiated by the largest group of the Hawaiian rights movement, Ka Lāhui Hawai'i. The process is called 'The People's Puwalu' ('All Together') and is bringing together people from all parts of the *Kānaka Maoli* community in open dialogue. The meetings are taking place in different localities - no small achievement, considering the costs of traveling between the islands (today almost exclusively done by air) and have so far been addressing important questions of land, water, natural and cultural resources, *Kānaka Maoli* spirituality and cultural rights.

The Department of Hawaiian Homeland, which administers about 200,000 acres of land supposedly for the benefit of native Hawaiians, has finally after more than seventy years finished a land inventory and has begun the process of regaining lands 'lost' over time. There is still a lot to be done, since in all the years of the program's existence only about seventeen percent of the land has been awarded to the beneficiaries. The rest has been leased out for nominal rents to mostly non-Hawaiians. The state of Hawai'i has also approved payment of six hundred million dollars over twenty years to settle claims for breaches of the Hawaiian Homes trust. Where these funds are going to come from is not yet settled. Also the federal government has acknowledged some trust responsibilities and is negotiating reparations. Considering that the living expenses in Hawai'i, not least the housing, are some of the highest in the United States, the only way for many Kānaka Maoli families to get a place to live is to wait for a homestead lot. Unfortunately, many have died while they were still on the waiting list.

In January 1996, the Hawaiian Homes Program was confronted with a tragic protest against many years of neglect in quality of housing. In front of numerous officials and homesteaders, Kahale Smith of Anahola Homestead, Kaua'i, set his house and himself on fire, rather than being evicted by the Department of Hawaiian Home Land. His death testifies to the desperate situation of many Kānaka Maoli.

Quite a few indigenous Hawaiians solve the problem of high prices by living on the beach in tents or little houses. One such group of people live at the mouth of Mākua Valley at the west end of O'ahu. They were served eviction notice by April 15, 1996. The threatened eviction was later postponed to June 15, in order to let the children finish the school year. Mākua Valley ('ceded' lands, see below) was seized by the US military under the martial law of the second world war. In spite of official state protests, it took many years before the federal authorities finally negotiated a lease contract. The valley has been used for bombing practices and other military manoeuvres since then. The people of Mākua says "We are living on ceded lands. The state of Hawai'i is responsible to the Native Hawaiian People for the ceded lands they hold in trust. We just want to live in peace and dignity, as stewards, as keepers of the land, as our ancestors" (News Release from the Mākua Council, April 1996).

At Honokōhau at Hawai'i Island, another group is threatened by eviction. The Pai 'Ohana (family) has been living on and taking care of their ancestral land and sea of Honokōhauiki since before the Westerners knew Hawai'i existed. They are the living descendants of the original

inhabitants, a fishing family with an intimate relationship, knowledge and responsibility to the area. The members of the Pai 'Ohana generously share their knowledge in cultural programs and gatherings, but are not wanted on the land by the National Park Service, administering the Kaloko-Honokōhau National Historic Park for the federal government. Eviction notices have been served and withdrawn, and many local groups are supporting the family in their continued stay on the land.

One of the strong supporters of people in land struggles is the Ahupua'a Action Alliance, a unique alliance consisting of about fifty local environmental and Kānaka Maoli groups which have come together to protect Hawai'i's coastal, marine and watershed ecosystem, and associated Kānaka Maoli rights and cultural traditions, from the environmental crisis facing Hawai'i. The Ahupua'a Action Alliance is a strong proponent of a bill now pending in the legislature inserting wording securing cultural impact statements in the law regarding environmental impact statements. This bill has recently been vetoed by the Governor of Hawai'i, perhaps in an effort to control the implications of a recent State Supreme Court ruling which affirmed native Hawaiian rights and the state and county governments constitutional, statutory, and common law obligations to protect and preserve the traditional and customary practices of native Hawaiians. The ruling held that the right of native Hawaiians to practice traditional activities on privately owned land has always been accommodated in law in Hawai'i. The authorities were directed to consider native Hawaiian rights in the processing of permits needed for development projects. This ruling is a major challenge to the Western concept of ownership, among legal experts popularly described as 'a bundle of rights'. In the case of Hawai'i, based on law virtually unchanged for hundred and fifty years, the bundle does not include the right to exclude others (that is: native Hawaiians) from privately owned land. This is a major challenge to the legal and political system which seems ready to fight it.

Another ruling, much appreciated by indigenous Hawaiians, is putting a stop to the sale of public lands. Public lands in Hawai'i come from lands 'ceded' to the United States by the self-proclaimed 'Republic of Hawai'i' when it achieved the desired annexation to the United States almost a hundred years ago. The 'Republic' was an illegal entity which came into existence after a group of mostly Western (American) businessmen overtook the Hawaiian monarchy with the help of United States troops. The 'new government' refused to return the power to the Hawaiian Queen, when the American president later labeled their action a lawless

occupation and armed invasion. The 'ceded lands' were the Hawaiian Government and Crown Land. With the Organic Act of 1900, making Hawai'i a Territory of the United States, these lands were to be held as a 'public trust' among four other purposes for 'the betterment of the conditions of native Hawaiians'. Twenty per cent of the revenues of the 'ceded' lands goes into funding the Hawai'i state parallel to Bureau of Indian Affairs (BIA); Office of Hawaiian Affairs (OHA). OHA, unfortunately, has the same dismal statistics as the BIA, using the majority of its funding for administrative purposes.

Kānaka Maoli claim the 'ceded' lands which are held in trust for them. Some, all of it, others, one-fifth, according to interpretations of the law. Were they in fact to gain control over the 'ceded' and the Hawaiian Homes Land, they would become a very rich indigenous nation. The challenge from these claims might be one reason for the rush with which the state seems to be trying to settle the questions of indigenous rights for the future.

The Head of state of the 'Independent and Sovereign Nation State of Hawai'i' (one of the larger groups in the sovereignty movement), Pu'uho-nua Kanahele, was indicted and arrested on almost two years old charges for harbouring a federal fugitive. The general opinion among Kānaka Maoli was that this move was a warning to the sovereignty movement from the state and federal agencies, and Kanahele received support from a wide range of society.

Land struggles and protests against environmentally and culturally inappropriate development projects continue, while the general economic crisis hits native Hawaiian programs and language teaching hard. Local initiatives such as taro farming have to compete with urban development over limited resources such as water. Tunnels have been built many years ago which are diverting the water from the taro-producing valleys of the windward sides of the islands to the leeward sides sugar and pineapple plantations. Building on this 'established practice' developers claim the water for golf courses and flushing toilets, now that the plantations are going out of business. The Waiahole contested hearing which has been going on for months is illustrating this point.

AUSTRALIA

Indigenous Social Justice

The past year in indigenous Australia has been one of agenda-setting. It began with publication of three major reports in March and April 1995 by indigenous-controlled bodies with official status as advisors to the national government¹. Those reports responded to the prime minister's commitment to an 'indigenous social justice package' which would complement the rights recognition and land acquisition policies which followed the landmark *Mabo* decision of Australia's highest court in 1992.

The Council for Aboriginal Reconciliation made up of well-known indigenous and non-indigenous persons was established by a former prime minister in 1991 with all-party support to encourage social understanding and political accommodation between races. Publishing the first of the three social justice reports, *Going Forward*, it strongly emphasised national consultation processes, constitutional reform, and 'the value of one or more documents to formalise the position' of Aborigines and Torres Strait Islanders in Australia's political and legal framework, as well as recommendations on many other subjects².

The next report came from a high-level indigenous committee set up by the Aboriginal and Torres Strait Islander Commission (ATSIC), Australia's mixed federal indigenous administration and regionally elected indigenous representative structure. *Recognition, Rights and Reform* made detailed recommendations for immediate work on the big policy items like constitutional reform, and soon won \$3 million (Australian dollars) from the national budget to begin such work.

The final report, *Indigenous Social Justice*, from the national indigenous peoples' ombudsman, Mick Dodson, made fewer recommendations but moved right into the substantive questions of constitutional reform, 'regional agreements', funding of indigenous communities, and international indigenous cooperation with specific chapters on each. The agenda which the three reports put forward is sufficiently new to most Australians that this third report's attempt to provide a travellers' guide into the new world of indigenous policy has proven useful, judging by its widespread use in conference kits and reading lists.

These reports began with a discussion paper prepared jointly by the three bodies³ for use in two national rounds of indigenous

community consultations. Then a series of joint workshops of the three bodies was held with invited experts to consider the community meeting reports and further study papers. There has probably never been such an authentic or thorough case of national policy development by indigenous people anywhere, nor one which led so directly from community opinion to the decision-makers of government.

The New Agenda

The social justice reports had six key items. *Constitutional reform* to enable *Aborigines* and *Islanders* to make a political compact or 'treaty' or other constitutional outcome with non-indigenous Australians, was the basic theme - a negotiated political process to overcome indigenous grievance and enable peoples to live together in peace. With non-indigenous Australia today full of surging national pride and assertiveness in the arts, international affairs, economic change and domestic politics, there is considerable support for 'reconciliation' with indigenous peoples as a national duty (although little understanding of what is involved).

Land rights remain in dispute with the national Native Title Act of 1993 creating indigenous disappointment and continuing white backlash. *Marine rights* have not yet made headway, although the national Coastal Policy of 1995 promises indigenous participation in policy development. Work has begun on an indigenous fisheries strategy. Land and sea rights are fundamental issues for all indigenous peoples, and the most immediate social and economic concerns of the indigenous people across most of the continent, so progress on these will be the test of all government policy.

Recognising and funding community self-government is a major issue, not only for cultural autonomy, but because state and territory governments fail so dismally to deliver basic services to 'first world' standards that this was the major grievance in community hearings. With most governments unwilling to increase spending beyond token amounts or to recognise that non-indigenous control is much of the problem, one cannot be optimistic for change soon. A few voices urge Greenland and North Norway as models for Australian community betterment policies, to no avail.

Regional agreements like those in Alaska, Greenland, and Northern Canada where Inuit and Indian peoples are taking control of land and sea territories, public services, economic development,

environmental protection, and their collective future have attracted much interest⁴. In North Queensland two of these are emerging, one on Cape York where Aborigines have defused white sheep-farmers' anger and won environmentalist support, and another south of the Gulf of Carpentaria where 4000 Waanyi are negotiating with the world's largest mining company, CRARTZ, for the Century zinc project to benefit the Waanyi in return for support. Regional agreements in North America 'empower' indigenous peoples within nation-states, their value and strength lying in their negotiated legal status and political structures. As yet the Australian versions lack those critical features, for which reason many Aborigines fear them as a new white deception.

Finally, *Torres Strait* is recognised by all national political parties as deserving unique regional arrangements. However, when the question of self-government was broached during the prime minister's visit in September 1995, he appeared to make any progress dependent on economic development. Without clear legal rights to sea and islands, and control of regional policy-making, Islanders have no basis on which to initiate or benefit from development, or protect marine productivity.

This new agenda challenges Australia, and some indigenous people, because it shifts past focus on immediate material benefits and public services to negotiation processes, rights, and indigenous powers and structures of self-government. Lacking the immediacy of basic needs like clean water and schools, it is easy for governments to deflect interest with their small hand-outs to impoverished and unemployed indigenous people who are desperate. Such archaic and tragic colonial manipulation further poisons indigenous-white relations. Many Aborigines and Islanders are counting on world news media coming to the Olympic Games in Sydney in the year 2000 to drive home to Australians that their treatment of indigenous peoples is unacceptable in an affluent liberal democracy. They believe that then, speaking to the world directly, they will arouse the world to bring home to Australians and their governments the need for change.

Past and Present

These central 'social justice' issues are not always the ones which receive most public attention. That honour goes to the Hindmarsh Island bridge fiasco. The protection of indigenous sacred sites is a

continuing practical problem (and where much Australian practice has much to teach other countries). Using its powers to protect Aboriginal heritage, the federal government stopped a bridge and marina being built near Adelaide when these were opposed by local Aboriginal women. The area has special significance for them and their fertility, the women reluctantly explained. This became a row between the state and federal governments, between Aboriginal women when some denied such beliefs, between others who said the beliefs were invented to stop the project, and among and between non-indigenous anthropologists and local historians who disputed each other's credibility as experts. The courts and an official inquiry have now rejected the Aboriginal beliefs, although a new federal inquiry is underway. The confusion, claim and counter-claim, and flippant talk of some involved has fed public and official scepticism of indigenous culture and beliefs. It would be hard to imagine a better subject for contemporary post-colonial scholarly analysis, so the inevitable books may some day create understanding and respect for Aboriginal society's cultural dilemmas with secret beliefs, but the episode has been an Aboriginal disaster so far.

One new book has made a major contribution to Australian and world understanding of colonial relations. In *Fate of a Free People*, historian Henry Reynolds has re-opened the notorious question of the extermination of the *Tasmanian Aborigines*⁵. His convincing account of the bumbling of various white officials and of the organisation and determined resistance of the Aborigines, is a readable and classic study. He shows that the Aborigines did not quite disappear, although defrauded of their future, lands, and most of their lives by the failure of British authorities to honour a treaty negotiated with them.

In his books and assistance to indigenous claimants, Professor Reynolds has contributed greatly to growing awareness that Australia did not escape the imperial intentions and policies which saw New Zealand, Canada, and the USA make treaties with local peoples a basis for co-existence. However flawed, unequal, or dishonoured those early political settlements, they have provided a model or symbol for political accommodation in recent years. Now Australia, too, is seeking to come to terms with its past - often passionately in classrooms and legislatures where it is asked if the continent was 'settled' or 'invaded'. Many thoughtful Australians

fear a USA-style racial divide bringing violence and civic breakdown unless indigenous grievances and needs are quickly addressed by governments.

Northern Territory

The biggest immediate issue may be the future of the Northern Territory. The white population, much of which comes and goes every few years, controls the government through a mostly Darwin-based small business circle which had held power for more than 20 years. Half the territory is owned by Aborigines under a national land rights law which established the claims procedure. The NT government has strong ideological opposition to indigenous rights. Aboriginal people who were massacred or forcibly abused in living memory often think they have no hope for change, a despair and lack of experience with legal and political levers which the craftier NT government supporters claim as Aboriginal support for their political control and agendas⁶.

Before each 3-yearly national election, a strange natural phenomenon occurs in Darwin. Suddenly chirpy politicians and new documents promote the benefits and joys of the NT becoming a full Australian state. They show distress that the NT lacks 'equality'; that is, lacks the inequality entrenched in the constitutions of the other states which in the 1890s wrote the Australian Constitution, notably the power to control Aboriginal lands. Always hoping that a congenial government may be elected in Canberra, Darwin's politicians prepare to rush in and grab statehood and the national land rights law before new eager-to-please ministers have time to realise the consequences. In Canada in 1979 the Yukon similarly ambushed the new Clark government, an event which helped defeat that government soon after.

In the NT case, a takeover of Aboriginal lands without the consent of those people would be an outrage. There is already an officially supported 1990s movement in Australia to negotiate constitutional change with Aborigines, so an NT state constitution written by whites on 1890s lines, despite a few concessions added from time to time to quiet white consciences in the south, is unacceptable. A new Australian government which fails this test will invite the very accusations of racism and return to the past which it can least afford, at home or among its powerful Asian neighbours and trade partners.

Beginning Again

In February 1996 the first real national indigenous constitutional conference took place. ATSIC invited 80 politically active indigenous persons to Adelaide, and brought in four experts in constitutional politics and law. In her televised opening remarks ATSIC chairperson Lois O'Donoghue said the Australian government's indigenous policy was 'to throw money at problems it scarcely believed can be resolved'. This may be the most concise and correct analysis ever made. It is also the reason why indigenous peoples and many non-indigenous officials, interest groups, and researchers are looking to change frameworks for indigenous policy. The conference stressed that 'constitutional' change refers not only to the national Constitution which is hard to amend, but the national network of governing arrangements and basic laws. Quite simply, the old frameworks and policy assumptions are proven failures.

A new government in Canberra from March 1996 will have some work in devising policy because it has been committed to a view that social and economic programs are 'the answer'. It has dismissed rights recognition and structural change as 'politically correct' gads associated with suspect elites close to the Labour government. There are two problems here. One is that social programs have already failed to achieve fundamental change in indigenous disadvantage and despair. Secondly, the coalition government's two parties, out of power for 13 years, are making the classic mistake in such cases of seeing the social and organisational landscapes and sensibilities of modern times as creations of their political enemies.

So, 1996 will be a difficult transition period for indigenous policy. Although the new government has members and friends who are sympathetic and progressive on indigenous issues, they are not its dominant faction. The contemporary consensus among developed European countries in Europe, North America and New Zealand that cultural autonomy, self-government, and institutionalised (including constitutionalised) recognition of indigenous peoples is the basis for policy has not penetrated Australia or most of its political circles. Even many of those who say quietly that 'of course' something must be done, think only in terms of some pretty words in the Constitution's preamble saying the Aborigines were here first. That is what the English word 'Aborigine' means, after all, so it is not a breakthrough. ('Australian' in the early years of white settlement was a word used only for indigenous persons.).

The new government will learn that indigenous people are not a mere collection of individual wants and economic motives. They are also distinct cultural communities whose conduct, hopes and actions are patterned in ways different from those of Australia's Western European majority. They are now, as they once were, active political communities seeking group well-being and affirming identity together. These global notions are still thought 'radical' across northern, central and western Australia.

Australia, more than many countries, will continue to require information, scrutiny, and support from abroad in order to make progress in indigenous policy. The ombudsman Mick Dodson in the third of the social justice reports puts the matter simply:

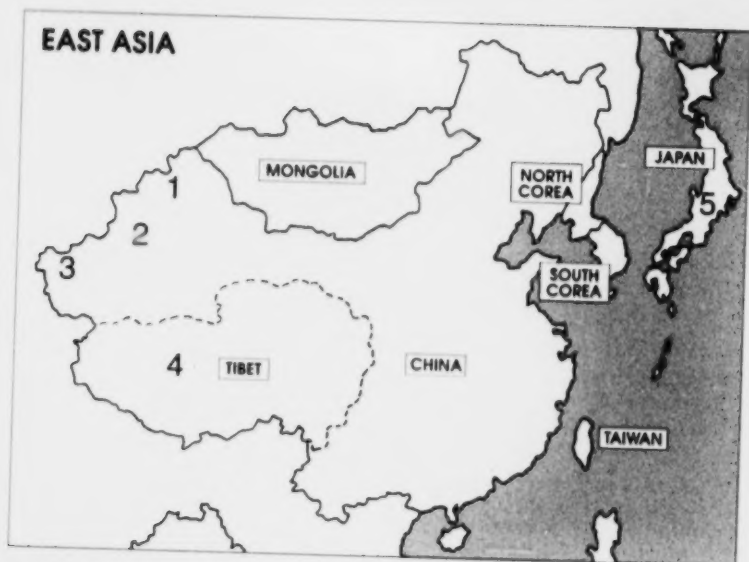
Indigenous peoples throughout the world have contemporary grievances and all have suffered dispossession of territory, denigration of culture, marginalisation, assimilation, and social ills. In many countries today the lives of indigenous people are at risk from brutal governments and brutal colonisers. If we were to dwell only on the many problems remaining, we would be immobilised by despair. What we must do instead is build on positive measures which have begun to emerge in some countries. Nobody would suggest that any country has solved indigenous problems, but at least there are examples now appearing of general policies, specific initiatives, or unforeseen outcomes which return self-worth and decision-making to peoples previously marginalised."

Australia's indigenous leaders frequently note that overseas contacts have helped bring their country and its governments into the contemporary world of human rights standards. They also are increasingly drawing on overseas precedents and experience, both good and bad, to devise better outcomes at home. Progress is not easy. Some officials in the national administration are even trying to re-package traditional Australian neglect and assimilationism as a uniquely caring and 'inclusive' policy, a refusal to exclude their indigenous brothers and sisters, mischievously depicting indigenous autonomy and self-government ideas from abroad as cruel rejection.

In the four years since *Mabo*, a handful of political leaders and officials around Australia, together with a growing band of indigenous leaders, have fought a brave fight to reform Australia's old racist policies. Much more indigenous effort, public education and white political will are needed to succeed.

Notes:

1. *Going Forward: Social Justice for the First Australians*, A Submission to the Commonwealth Government from the Council for Aboriginal Reconciliation, Canberra, 1995; *Recognition, Rights and Reform: A Report to Government on Native Title Social Justice Measures*, Native Title Social Justice Committee, Aboriginal and Torres Strait Islander Commission, Canberra, 1995; *Indigenous Social Justice, Vol. 1, Strategies and Recommendations*, Mick Dodson, Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, Sydney, 1995. See also Jull P. 1996, "An Aboriginal Policy for the Millennium: The Three Social Justice Reports", *Australian Indigenous Law Reporter*, Vol. 1 No.1, pp.1-13.
2. Recommendation 12, *Going Forward*.
3. *Towards Social Justice? An Issues Paper*, Commencing the Process of Consultation by ATSIC [Aboriginal and Torres Strait Islander Commission], Council for Aboriginal Reconciliation, and Aboriginal and Torres Strait Islander Social Justice Commissioner, Canberra, 1994.
4. This Australia term refers to Alaskan and Canadian regional claims settlements and Greenland home rules. See Richardson BJ, Craig D & Broer B, 1995, *Regional agreements for indigenous lands and cultures in Canada*, A Discussion Paper, Australian National University North Australia Research Unit, Darwin; Harris A (ed), 1995, *A good ideas waiting to happen: Regional Agreements in Australia*, Proceedings from the Cairns Workshop July 1994, Cape York Land Council, Cairns, Qld.; ATSIC, 1995, *ATSIC Regional Agreements Seminar, Cairns, 29-31 May 1995*, Proceedings, Aboriginal and Torres Strait Islander Commission (ATSIC), Commonwealth of Australia, Canberra.
5. Published in 1995 by Penguin, Melbourne.
6. See also Harald Eidheim's discussion of Norwegian political 'entrepreneurs' in *Aspects of the Lappish Minority Situation*, Universitetsforlaget, Oslo, 1971.
7. Page 42, *Indigenous Social Justice, Volume 1*.



1. Kazakh
2. Ulghur
3. Kyrgyz
4. Tibetan
5. Ainu

EAST ASIA

CHINA

With the exception of Tibet and Xinjiang, issues relating to the indigenous peoples were not very prominent in the Chinese or foreign press headlines in 1995. However, on the national level, there were some issues that may result in serious repercussions for the indigenous peoples in the future. This was caused by the increasingly tense relationship between China and the United States.

Besides the 'standard' squabbles over human rights and trade, there were two issues that infuriated the Chinese leadership. One was the granting of visa of the Taiwanese president, Lee Teng-hui, to join a reunion at his Alma Mater, Cornell University. The other issue was that President Clinton had an unofficial 'chat' with the Dalai Lama during his visit to the US in September.

These incidents, along with other issues such as the rising regional tension in connection with the Chinese claims in the South China Sea and the jittery atmosphere before the Chinese takeover of Hong Kong, have contributed to an increasing feeling of uneasiness not only within the Chinese leadership, but also among the populace in general.

The official Chinese policy of opening up to the world notwithstanding, there is a renewed fear - with roots back to the last century - that efforts to build a unified nation-state is being threatened by the increased foreign presence in China. This finds its expression in increased nationalist sentiments, both official and popular, and such a nationalism will neither be conducive to democratization nor to increased autonomy for the indigenous peoples. On the contrary, such sentiments are likely to result in more restricted policies, if they are developed along their present lines.

The case of Tibet will be treated separately. Both in Tibet and in Xinjiang, there were official celebrations in connection with the 35th anniversary of the establishment of the Tibetan Autonomous Region and the 40th anniversary of the establishment of the Xin-

jiang Uygur Autonomous Region respectively. Both in Lhasa and Ürümqi, the stress was on 'patriotism, unity and progress'.

In Ürümqi, the capital of Xinjiang, official celebrations on the 1st of October were headed by Jiang Chunyun, a recently appointed Vice-Premier, by the Uygur Abulat Abdurixit, governor of Xinjiang, and by the Chinese Wang Lequan, Party secretary of Xinjiang. The speeches stressed that China, unlike many other countries, had mostly avoided ethnic conflicts, but that the struggle against separatist forces were likely to continue for a long period.

During the period before the anniversary, Chinese officials in Xinjiang had warned that 'hostile forces at home and abroad' and 'former Chinese citizens' were stirring up trouble in the region. This referred primarily to circles within *Kazakh*, *Kyrgyz* and *Ulgur* (Uygur) communities in the former Soviet Central Asian states of Kazakhstan and Kyrgyzstan.

The establishment of the new independent republics in Central Asia led to a new situation for the Chinese policy-makers with regard to Xinjiang, and the relation to China will always be a major policy issue for the new states. The preferred strategies of both parties (the Chinese and the others) seems to be an attempt at striking a balance between control and openness. In the new states, there is considerable sympathy for the situation for their ethnic cousins across the border in Xinjiang, and also a notable fear that China will come to dominate Central Asia in the future. Today, Xinjiang borders with no less than eight neighbouring countries.

Kazakhstan has around 50,000 *Kazakhs* who fled from the policies of collectivization in Xinjiang at the beginning of the 1960s. On September 12, the Kazakh President Nazarbajev met with Chairman Jiang Zemin in Beijing where, among other things, they discussed the status of the *Kazakhs* who fled and the situation for the more than one million *Kazakhs* who live in Xinjiang (and some even as far east as Qinghai). According to Itar-Tass, the two leaders "came out against fomenting national separatism on their territories and will seek to turn the border between them into a border of friendship and mutual confidence".

Another agreement that was reached during the meeting was to construct an oil pipeline from Western Kazakhstan to the eastern coast of China. This monumental pipeline, as well as another even longer planned pipeline from Turkmenistan through Uzbekistan and Kazakhstan and eastwards, are Japanese ventures with Chinese participation. All of them will have to pass through Xinjiang, where

the intense Chinese prospecting and tapping of oil from the Tarim basin already has been met with resentment from the *Uygur* communities.

The other trans-border issue involved the Uygurs. Altogether about 20,000 Uygurs fled from Xinjiang across the Soviet border along with the Kazakhs in 1959, 1962 and 1974. While the Uygurs are the dominant nationality in Xinjiang (about eight million), they have always been a small group in the former Soviet Union, (about 200,000 in the 1989 census). However, their position in the former Soviet regions has been rather privileged because of their superior trading skills.

The Uygurs of Kyrgyzstan, who number about 40,000, organized themselves in 1993 in an association called Ittipak, which means 'Union'. They have lobbied successfully to improve their status in Kyrgyzstan, but their efforts to increase trade relations with Xinjiang and work towards closer relationships with the Uygurs in Xinjiang prompted the prosecutor's office in Kyrgyzstan to issue a warning in January 1995 that their activity could "arouse doubts about the friendly relations of the Kyrgyz and Chinese people".

Many *Mongols* were arrested in December 1995 in a series of demonstrations in Hohhot, the capital of The Autonomous Region of Inner Mongolia. The first demonstrations took place in front of a popular ethnic Mongolian bookstore, whose owner had been arrested with other members of the Southern Mongolian Democracy Alliance, whose aim is to establish an independent Mongolian nation in Inner Mongolia. On December 30, 27 people were detained in a rally which featured portraits of Genghis Khan, the great Mongolian Empire builder.

TIBET

In terms of international law the Tibetan nation is not an indigenous people and the Tibetan Government-in-Exile has chosen not to use this label. Tibet was an independent state at the time of the Chinese invasion in 1949/50. Legally, the country therefore remains independent today because China used force when it occupied Tibet which is a violation of international law. The Tibetans are thus only included in this publication because they fit a wider definition of indigenous peoples as subject to colonisation and having the right to self-determination.

The head of the Tibetan Government-in-Exile, His Holiness the Dalai Lama, has consistently stressed the need to find a negotiated solution to the problems of Tibet and has avoided making demands for full Tibetan independence. Instead, to initiate a dialogue with the Chinese government, he has suggested a solution whereby a future Tibet would exercise internal self-government within the Chinese state. China has rejected these overtures and claims the Dalai Lama is working for full independence.

China Abducts Six Year Old Panchen Lama

1995 brought a severe blow to any efforts to initiate negotiations between the Chinese government and the Dalai Lama. When the Dalai Lama on 14 May recognised a six year old boy in Tibet, Gedhun Choekyi Nyima, as the eleventh incarnation of the Panchen Lama, the second highest Tibetan Buddhist leader, the Chinese government reacted very strongly. High-ranking lamas traditionally command significant political authority and the late (tenth) Panchen Lama, holding high posts in the Chinese political structure, had provided an important source of legitimacy for Chinese rule in Tibet. China has now intensified its existing campaign against what they name 'the Dalai clique', forced people to attend meetings where they were compelled to denounce the Dalai Lama, arrested more than 50 Tibetans who had dared to speak out against the Chinese campaign and abducted the young Panchen Lama as well as his parents. The boy and his family have reportedly been taken to Beijing and put under house arrest.

On 8 December 1995, another six year old Tibetan boy was installed by the Chinese authorities as their Panchen Lama candidate. By choosing to go against the religious authority of the Dalai Lama and by enforcing its will on the Tibetan people in this religious matter, the atheist Chinese government has created an explosive situation in Tibet where people have been outraged by its moves. Any early reconciliation between the Chinese government and the Dalai Lama now seems difficult to envisage.

Radicalisation of Chinese Policy

A radicalisation of Chinese policy toward Tibet has taken place in 1995. Political persecution and surveillance reached a new high as dissidence increased. By the end of the year, personal details of more than 700 political prisoners were known to human rights

monitors. This is the highest number of Tibetans imprisoned for political reasons since the end of the Cultural Revolution in the 1970s. In 1995 alone, 218 political arrests are known to have happened, according to the Tibetan Government-in-Exile.

Torture and ill-treatment continue to be used during interrogation and imprisonment. Four young political prisoners died in 1995 as a result of torture and ill-treatment while in police custody. Several others have died shortly after being released from prison.

In a major crackdown against the independence movement, several Buddhist monasteries were raided by soldiers and more than 88 monks and nuns expelled. Throughout the 1980s and the beginning of the 1990s, Tibetans have made many efforts to rebuilt some of the 6,259 monasteries that were partly or completely destroyed from 1949 to 1979. Now, the Chinese authorities have decided to stop further reconstruction and have imposed a limit on the number of monks and nuns. In the beginning of 1996, a nunnery and a monastery were closed in Ngamring county due to political reasons.

New Tendencies Toward Violent Resistance

Non-violent opposition in the form of peaceful demonstrations and slogan writing campaigns for Tibetan independence has persisted despite intensified surveillance and political imprisonment as a result of the introduction in September 1994 of new security regulations, identifying people engaged in 'separatist' activities as the first target of surveillance and repression.

1995 saw the first known politically motivated bombings in Tibet since 1985. Between June and August, five attempts at sabotage are reported to have taken place in the capital Lhasa. They were all directed not at people but at Chinese installations in Lhasa in the run-up to the celebrations on 1 September last year of the 30th anniversary of the founding of the Tibet Autonomous Region. Two of the bombs detonated at a monument in western Lhasa dedicated to the workers who built two roads linking Tibet to China. Another bomb reportedly killed a Chinese worker as it detonated in a fuel dump in the same part of the city. According to the independent British information service, Tibet Information Network, there is no evidence so far as to who carried out the alleged attacks, and none of the incidents have been confirmed, nor have they been reported by the official media.

On 18 January, a bomb is reported to have exploded and seriously injured one person at the house of Sengchen Lobsang Gyaltzen, a pro-Chinese Tibetan lama who in July was appointed as abbot of the Panchen Lama's monastery, Tashilhunpo.

Sympathy but no Action

The international community seems increasingly preoccupied with the booming economy in China and hesitant when it comes to criticising China for its repression in Tibet. Most governments, having effectively de-linked trade and rights, are reluctant to raise the case of Tibet in multilateral fora fearing negative repercussions to the development of business relations with China. Aware of its own rising economic and a political power, China is becoming both more and more aggressive and successful in its efforts to censure criticism and to prevent damage to its economic and political relations due to its policy in Tibet, especially in international fora.

Passages on the Dalai Lama were thus deleted in a publication released by the UN on the occasion of its 50 year anniversary. At the Fourth World Conference on Women held by the UN in Beijing in September 1995, representatives of Tibetan women living in exile who managed to participate were followed, filmed and harassed by Chinese security personnel. None of the eight Tibet organisations that were initially registered for accreditation were approved in the end despite fulfilling the formal requirements.

Non-governmental organisations (NGOs) lobbying at the UN are now facing the intimidation governments have already succumbed to. At the February 1996 meeting of the UN Committee on NGOs, China led a coalition of nations in questioning the right of NGOs with consultative status to 'infringe upon the sovereignty' of member states by questioning their human rights record. As a result, the status of several NGOs may now be reviewed. In particular organisations that have supported the Tibetan struggle, such as Human Rights Advocates and Pax Christi, have been specifically targeted.

Tibetans look to the annual Commission on Human Rights, which takes place in Geneva, as the best hope for multilateral support for their cause. In 1995 the European Union, the United States and other members of the Commission successfully brought forward a resolution condemning human rights violations in China and Tibet. That cooperative effort resulted in near passage of the resolution - losing by only one vote.

Tibet supporters and Chinese democracy activists hoped that 1996 could be the year in which their efforts would finally result in the passage of a resolution on China and Tibet in the Commission on Human Rights. However, by February 1996 it appeared that although the United States would likely co-sponsor the China resolution with the European Union, tensions resulting from the US/China trade war and the status of Taiwan could de-rail the active lobbying necessary to ensure success of the resolution.

While the UN and several governments seem to be giving up pressuring China on Tibet, several parliaments have adopted resolutions that address the issue in still clearer language. The European Parliament on 13 July reaffirmed "the illegal nature of the invasion and occupation of Tibet by the People's Republic of China; whereas, before the invasion by China in 1950, Tibet was recognized *de facto* by many countries and whereas it is an occupied territory according to the principles laid down by international law and the resolutions of the United Nations".

JAPAN

The *Ainu* people have suffered plundering, violence, and oppression by the Japanese government, and they are now struggling for the rehabilitation of their rights based on ILO Convention No.169 of 1989 to become emancipated from the assimilation policy of the Japanese government.

The *Ainu* people are still under the 'Hokkaido Aboriginal Protection Act' (Kyu-Dojin Hogo hou) legislated in 1899, which discriminates against the *Ainu* and violates their human rights. In 1984, they began the movement to abolish this Act and establish a new set of legislation for the *Ainu*. Yokomichi Takahiro, the former Hokkaido governor, agreed to the *Ainu*'s proposal to have a discussion on the new legislation among 10 members of the council established in October 1984. As a result, on March 22, 1988, Morimoto Masao, the chairman of the council submitted a report that a new legislation should be instituted in cooperation with the Japanese Government to recognize the *Ainu* people as an indigenous ethnic group with its own religion, language and culture. Mr. Yokomichi brought this subject before the Hokkaido Assembly in July 1988, at which time the statement to institute a new legislation for the *Ainu* people was adopted and issued unanimously. In December 1989, the Japanese Government set up an investigation com-

mittee with members of 10 governmental sections, but this committee was not positive toward a new legislation.

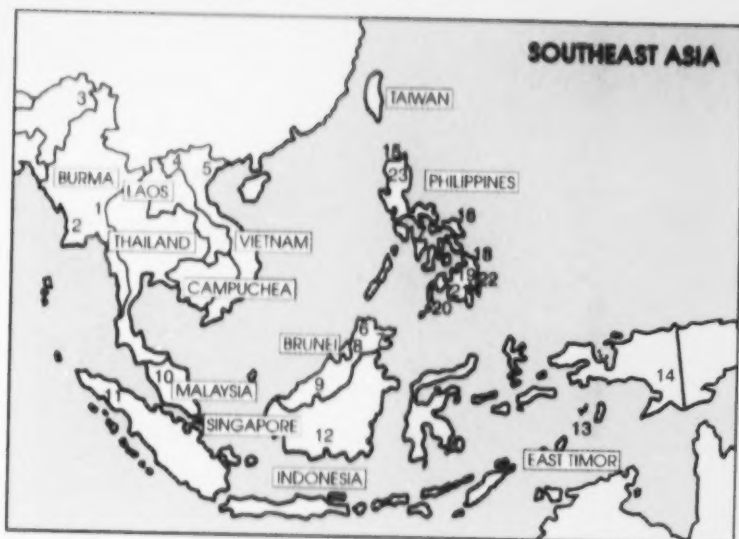
Vexed at the reluctance of the committee, the Japan Socialist Party supported Kayano Sigeru, a representative of the Ainu people, as a candidate to become a member of the House of Councillors in July 1992. Although Mr. Kayano was number 11 in the candidate list of the Party, he failed in the election. This was a disappointment to the Ainu people but two years after, in July 1994, the death of a member of the House of Councillors made Mr. Kayano the first Ainu member of the Japanese National Diet, while he worked for the drafting of the Draft Declaration on Indigenous Peoples Rights at the United Nations Human Rights Commission in Geneva.

Igarashi Kousou, who became the Chief Secretary of the Cabinet in the same year, stated that he would institute a new legislation by himself and organized a private conference of 7 members on March 30, 1995. The details were reported at the symposium of 'The Indigenous Rights of the Ainu People' held at Dousin Hall in Sapporo City on February 5, 1996.

The Prime Minister, Hashimoto Ryutarou, answered representatives' questions about the new legislation for the Ainu at the National Diet on 5th January, 1996 and promised that he would respond to the report from the conference. In March 1996 the foundation toward the recognition of the Ainu people as an indigenous ethnic group was laid, but no one can predict if the Japanese government will actually grant the rights claimed by the indigenous Ainu people.

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|-------------------|----------------------------|
| 1. Karenni | 13. Tanimbar of Yamdena |
| 2. Arakan | 14. Amungme, Comoro, Dani |
| 3. Naga | 15. Ibaloi |
| 4. H'Mong | 16. Bugkalot |
| 5. Tay-Nung | 17. Ati |
| 6. Rungu | 18. Manobo |
| 7. Dusun | 19. Higaonon |
| 8. Murut | 20. Subanen |
| 9. Penan | 21. T'boli B'laan |
| 10. Orang Asli | 22. Ata-Manobo (Taloingod) |
| 11. Langkat Malay | 23. Ifugao |
| 12. Dayak | |

SOUTHEAST ASIA

BURMA

The ruling State Law and Order Restoration Council's (SLORC) practice of selling off the natural resources within indigenous territories to multinational corporations and other big companies in the form of concessions or logging timber directly by its own forces has frequently caused bloody clashes between the SLORC army and the indigenous peoples' movements. This is a common experience of those indigenous peoples who entered into a cease-fire with the SLORC during 1992-1996. Their dreams of working out political solutions through negotiations have been badly shattered. Such bitter experience is forcing the indigenous peoples - *Kachin, Wa, Palaung, Lahu, Pao, Karenni*, etc. - who made truce with the SLORC, to form a common front against SLORC.

Karenni

The Karenni National Progressive Party (KNPP) and the SLORC made truce agreement on March 21, 1995. But within 4 months, the SLORC army launched a military attack on the Karenni army whose position had been exposed. The cease-fire agreement envisaged that both the parties will pull back their troops and refrain from deploying their army and launching military operations into each others known areas of control, so as to enable the parties to enter into political negotiation.

While the Karennis were preparing for the political dialogue and pulled back their troops from the front, the SLORC was quietly moving its army in violation of the truce agreement and by early June 1995 more than two thousand of its troops had taken up position inside Karenni area. The KNPP pointed out this and demanded the SLORC to immediately halt their deployment. The SLORC first denied the troop movement but later on July 3, 1995 it claimed that mobilization of its army in Karenni areas was against aggressive acts of foreign countries. It took only 11 more days to expose the true character of SLORC.

Taking full advantage of the peace situation, the SLORC army had taken up strategic positions and on July 14, 1995 launched a full scale military attack on the KNPP positions and occupied most of them. This was followed by wide scale logging of timber in the area by SLORC. Based on this military achievement the SLORC asserted in the November 21, 1995 talk with KNPP that the March 21, 1995 agreement was an agreement to surrender by the KNPP and that KNPP must evacuate from its positions. This means KNPP should surrender the livelihood of the Karenni people to the SLORC. As anticipated the Karennis strongly rejected this unfounded claim and refused to comply with the demand for evacuation. SLORC has intensified its offensive, the KNPP on its part is putting up guerrilla resistance.

With this the violations of human rights in the Karenni area are increasing daily. Every month, hundreds of villagers are conscripted by SLORC as porters and sent to the front line to carry ammunition and food supplies. Often, they are even used as human shields for the advance troops. Hundreds of villages have been relocated. Recently, in the first week of May this year, 14 villages between Pon and Salween rivers were relocated at Ywathit in the west. Some families escaped to the Thai border. On May 31, 1996 villagers from another 124 villages in the same area were ordered to leave within June 1996 with a warning that any one found in their village after the month of June will be considered an enemy and will be shot. Other villagers from surrounding villages were looted by the troops. Some of the regiments involved in those atrocities are 102, 530, 531.

Arakan

Arakan Costal Region, the homeland of the *Rakhaing* people, is the western most state of Burma. Once a highly flourishing land and a core area of the world's rice-bowl, its population today live in abject poverty. Thousands of young people are leaving the place every month in search of livelihood in foreign countries. Having had no access to learning or vocational training, most of them have ended up in the far away mining areas where they are entirely at the 'mercy' of thugs on the payroll of their employers.

The feudal-time looting and destruction of the region by the Burmans from Rangoon was resumed as soon as the British left Burma. All the overseas trade was shifted from the Arakan seaport to Rangoon port and Arakan was deprived of the sea outlet to

export its rice and their important products. The SLORC aggravated the hardship by instigating Muslim-Buddhist riots in the region. The state-sponsored communal riots which the poverty stricken population used as outlets for their pent-up frustration and anger brought an additional wave of savagery. SLORC followed it up with open attack on the *Rohingyas* (Muslims) and fully exploited the situation to its advantage. This was enough for the staunchly Buddhist Arkanese youth to immediately join the SLORC Army in thousands. Once recruited, they are sent away to the frontline areas in the east and north. On the other hand, the SLORC enlarged the strength of its army in Arakan and stationed two regiments composed of mostly unmarried Burman men who are given incentives to marry Arakan girls.

This is being done to weaken the national resistance movement of the Rakhaing people as well as to get easy access to the resources - human power, forests, etc. Already many villages in the townships of Kyauktaw, Rathodaung, Buthidaung and Maungdaw have been forcibly relocated. The SLORC army has also been imposing labour conscription on most of the villages in northern Arakan to work as porters, or at the Asia Highway construction sites and for construction of military barracks.

Long before the Burmans, the Rakhaings/Arakanese had already established a strong kingdom and its association with Burma is a very recent one. It was destroyed in 1784 by the Mandalay kingdom (Burman) and subsequently annexed. But before long Arakan was made over to the British East India Company and the Burman kingdom itself came under the British in 1885.

The Rakhaings/Arakanese with their distinct culture and history could not be reconciled to the one-Burma-nation culture, concept and approach of the newly independent government in Rangoon. And when these were forced upon them, they revolted in 1948 asserting their right to self-determination. Their movement for self-determination has seen many ups and downs - including splits within the movement. However, their attempt to unify the movement has been making progress and today four groups have merged to form the National United Party of Arakan (NUPA) and with this, only two groups remain, the other one being the Arakanese Liberation Party (ALP).

In conclusion, it should be pointed out that it is a serious mistake to treat SLORC as a government of any party. The experience of

the various peoples in Burma has born out beyond any thread of doubt that the sole purpose of its existence is to loot the land and its peoples.

THAILAND

In Thailand, the forest crisis has developed into a crisis of the forest people. After decades of uncontrolled logging and extensive deforestation for upland cash crops, the country's forest cover is down to an alarming 26 per cent. The consequences were painfully felt in the form of massive flooding and landslides in the South during the rainy season of 1988, after which a total logging ban was declared for the whole country. Subsequently, a comprehensive Forestry Sector Master Plan was drawn up, which foresees a drastic expansion of conservation areas. Virtually all of the remaining natural forests will be covered by the Protected Area System (PAS), mainly serving biodiversity conservation and watershed protection functions. PAS is being expanded from the present 35 million to 88 million rai (14.08 million hectares), or 28 per cent of the total land area, over which the state will retain full control. Of the remaining, now mostly deforested, state forest lands, roughly 7 million are assigned for agriculture and 52 million rai for forestry and agroforestry purposes. These lands will be either alienated to individuals or leased on a long term and transferable base to individuals, communities or corporations in a land reform program.

As part of the zoning, all upland villages are being classified according to their 'potential for permanency', with the consequence that a total of 12,360 villages all over Thailand - many of them indigenous communities - face the threat to be moved out from the planned PAS areas. As experience has shown, relocated communities undergo severe hardship, mainly because agricultural land provided to them in compensation is insufficient and of low quality, and other local sources of income are not available, forcing many villagers to migrate elsewhere.

Forest Conservation, Relocation Plans and the Indigenous People's Response

The new community forestry law currently under drafting contributes little to the solution of the forest crisis and the forest peoples' problems. Although a large part of the forest communities live in

the conservation areas, community forestry is only foreseen to be implemented in the 52 million rai of the classified forest land outside the PAS. And the state remains the legal owner of community forest land.

Concerned NGOs and academic institutes (the Local Development Foundation, Project for Ecological Recovery, NGO Coordinating Committee on Rural Development, Action Research for Forest Communities) have come up with an alternative proposal for a community forestry law, which represents a much stronger tool for protecting the forest communities' rights while at the same time providing a solution for the forestry crisis. There is growing evidence drawn from the last two decades of experiences in forest management and biodiversity conservation programs that a sustainable use of forests and the protection of natural habitats can best be accomplished with the participation of the local people living in or near the respective areas. Peoples' participation and cooperation can however only be secured if they are given clear rights to use and manage land and forest resources.

Thailand's indigenous peoples agree with the government on the necessity to conserve the remaining forests and the country's biological heritage. However, they do not agree with the way this should be accomplished. They want to stay where they and their ancestors have lived long before legislative acts to protect the forests were promulgated, and to find ways for a peaceful coexistence of peoples and forests.

In fact, many of Thailand's indigenous peoples have traditionally practised conservation and thereby maintained a rich and varied environment under the guidance of their traditions, passed down from their ancestors. Although today scientific rationality and the forces of the market economy have eroded the influence of these traditions, the indigenous peoples of Thailand still believe in the potentiality of their traditional wisdom to live in harmony with nature, as their ancestors did in the past. And they are willing to make compromises and to cooperate with the government in conservation programs.

In 1993, the Network of Farmers of the North (NFN) was founded, a loose association of local peoples' organisations having evolved from a regional network. At present, the NFN encompasses 89 villages from 9 provinces in the North of Thailand, but membership is steadily growing. All of these member villages are located in proposed conservation areas and are threatened with

expulsion from their lands. A total of 2277 - mostly indigenous - communities in the North find themselves in this situation. Most of the Network's member communities are indigenous, but they were also joined by lowlanders' communities which face the same threat.

The NFN does not demand that the communities should be given full control over all the forest areas. The NFN agrees with the necessity to create conservation areas, but demands that the forest communities' settlement area, their farm land and a community forest be excluded. They demand titles for the settlement area and the land used for permanent agriculture, and clear use rights for swidden land and the community forest. This would allow them to design their own resource management plan and to cooperate with the government in protecting those areas of their former community territory which will be turned into conservation areas.

From April 27th to May 3rd 1995, the NFN organized a protest march which was joined by several thousand villagers. Starting from Chiang Mai the villagers walked to Lamphun, where NFN representatives submitted their demands to the former Minister of Agriculture and Cooperatives, Prachub Chayasarn. Their petition demanded:

1. For the already relocated communities:
 - a) the allocation of enough land and a proper compensation of financial losses,
 - b) the granting of continued use rights of established plantings in their former settlement area,
 - c) the provision of adequate water and electricity supply in the relocation sites;
2. That relocations be stopped and that the settlement area, agricultural and community forest land of each of the villages situated in conservation areas be delineated and excluded from the protected area. Titles should be given for the former two and use rights to the latter;
3. That titling and alienation of community land to outsiders be stopped immediately, and already alienated land be returned to the respective communities;
4. That the alternative community forestry law proposed by concerned individuals and NGOs be studied and adopted;

5. That a committee, composed of representatives of the villagers, NGOs, academics, provincial governments and the parliament, be set up and authorized by the Prime Minister to find and implement solutions for the forest communities' problems in relation with the conservation program.

The Minister reacted positively to these demands, and founded the proposed committee on 9th May. Authorization was however not yet granted by the Prime Minister. But only shortly afterwards irregularities uncovered in relation with the ongoing land reform program forced the government to step back and call for new elections, which were won by the Chart Thai Party under Banharn Silpa-archa.

The promising dialogue and the envisioned cooperation between NGOs, academics and the government within the committee set up by the former Minister of Agriculture and Cooperation was therefore abruptly interrupted before it could gain momentum. So far, the newly elected government of Prime Minister Banharn Silpa-archa has not yet come up with a clear policy on the conservation and relocation problem, and the new Minister of Agriculture and Cooperatives, Montree Phongpanich, does not seem to be much concerned with the issue. On the other hand, the Prime Minister at least expressed his concern and support for a community oriented approach in forestry and conservation in public. In Early November this year he has ordered the reclassification of 100,000 rai (16,000 hectares) of mature forests which the former government had earmarked for commercial forestry in the land reform program which brought about its downfall. And the revised version of the Royal Forestry Department's Forestry Sector Master Plan of 1995 takes a softer stand with respect to communities living in areas covered by the PAS. Actually, the Royal Forestry Department itself is split into a conservative and a more progressive faction, the latter strongly favouring and supporting a community forestry approach in the management of conservation areas. Consequently, implementation of the Master Plan on the provincial and district level varies considerably, with some of the RFD officials taking side with the forest communities, while others seem to be determined to push through the relocation program. Still, the range of freedom concerned foresters have in implementing the Forestry Master Plan (which actually allows for several options in dealing with forest communities) on the local level depends on the

attitude of their seniors, and therefore, of course, ultimately on the position taken by the Minister of Agriculture and Cooperatives.

The NFN is now attempting to restore the dialogue with the new government, in order to convince it to continue with the initiatives taken by the former Minister of Agriculture and Cooperation, to reorient the forestry policy by approving a community forestry law which includes the suggestions made in the NGO version. The NFN has convinced the Parliamentary Committee for Legal Rights to undertake investigations on the harsh measures taken against some of the communities living in the area covered by the planned extension of the Suthep Pui National Park. The NFN itself is presently doing similar investigations in all of its 89 member communities and will present the results to the Parliamentary Commission. A meeting has already been agreed upon with the new Minister of Agriculture and Cooperatives, in which they hope to convince him to let the committee established under his predecessor resume its work and to get the necessary authorization from the Prime Minister. However, the NFN is not very optimistic, as the new Minister of Agriculture and Cooperatives has so far shown very little interest in the issue. Therefore, the NFN attempts to directly seek the support of the Prime Minister. They intend to submit to him the petition already presented to the former Minister of Agriculture and Cooperatives during a personal meeting, which they hope will take place in 1996.

Citizenship and Indigenous Peoples' Rights

A precondition for any local level negotiation between the government and indigenous peoples is their recognition as Thai citizens. Without citizenship all attempts to obtain legal titles or other forms of land rights are futile. An official survey made 10 years ago put the share of indigenous peoples in possession of a citizenship card at 60 per cent. However, well informed people working among the indigenous peoples in the North of Thailand doubt the accuracy of these findings and estimate the actual figure to lie between 25 and 30 per cent. Therefore, the cabinet's decision of October 3, 1995, to grant the status of 'legal immigrants' to the members of the so called 'hilltribe' communities marks some progress in Thailand's minority policy. However, the granting of citizenship is tied to the provision that the applicants have not lived less than 15 years in Thailand or less than 10 years without interruption in the same district and that they pursue an 'honest profession', i.e. in particular

that they are not involved in the production or trafficking of drugs. Above all the provision concerning place and duration of residence in Thailand poses the problem of having to present proof which has to be accepted by the responsible authorities, a difficult task for many indigenous peoples and a provision which creates ample room for bureaucratic arbitrariness.

VIETNAM

The social and economic integration of the ethnic minorities/indigenous peoples has been the stated policy of the Government since the creation of the Socialist Government of Vietnam. The strategic location of the minority people in the border areas, the low density of their population in the fertile Central Highlands, and the fact that they include more than 13 per cent of the entire population make them critical both for national security and for the development of the country. The Government has pursued its policies at both the political, administrative and economic levels with perseverance but also with very mixed results. Since the beginning of the Reform Period in 1986, usually referred to as the Doi Moi or Renovation period, the policies have increasingly been viewed as ineffective and have come under severe criticism both within the Communist Party but also externally by the international donor community.

The Ethnic Minority Situation

As a result of increased activity by the international NGOs but also more recently by the World Bank, Asian Development Bank, UNDP and UNICEF more general and detailed information on the ethnic minorities has become available. The demographic data shows that the ethnic people have increased from 13.1 per cent to 13.56 per cent of the population between 1989 and 1995 due to relatively higher growth rates for all ethnic groups as compared with the Kinh. Family size is bigger, and infant mortality rates are higher while life expectancy is considerably lower. The densest concentration of ethnic people is in Northern Mountain Zone which includes eleven provinces and the Central Highland Zone which cover four provinces. The ethnic population in these two zones (which incorporates 75 per cent of the total ethnic population in Vietnam) includes about 60 per cent and 34 per cent of the total population

respectively. The ethnic population in the rural areas is even bigger with 70 per cent and 43 per cent respectively. A striking fact is that in these areas the ethnic minorities are, in fact, not a minority but a majority of the population.

Organised migration has been a regular feature of Government policy since reunification. Since 1974, 920,000 people have moved into the Northern Mountainous Zone, however, spontaneous migration has become more prevalent after the relaxation of rules on internal movement. The main focus both for minority movements and Kinh migration has been the Central Highlands and in particular DacLac province: *H'Mong* from the resource-poor province of Cao Bang in the North, *Tay-Nung* groups from the involuntary resettlement caused by the construction of the Hoa Binh Dam. Recent data, not yet verified, seem to indicate that spontaneous migration has slowed down considerably over the last two years.

The ethnic families are mostly subsistence farmers living below the poverty line both in relative and absolute terms. A World Bank study based on the Vietnam Living Standards Survey puts 59 per cent and 50 per cent of the total population below the poverty line in the Northern Mountainous Zone and the Central Highlands respectively. Their poverty is the result of their geographical isolation, their poor resource base and the degradation of their environment which diminishes their food security and exposes them to increased production risks.

Their isolation is exacerbated by language differences which makes it difficult to access the commercial and the labour markets and benefit from government services and public schooling. In addition to their geographical isolation they are also culturally isolated, and find it difficult to express their views and position and are often left in passive silence. Their production methods are centred on swidden farming with fallow periods which are getting increasingly shorter because of population pressure and shortage of land. With declining soil fertility they are increasingly unable to produce sufficient food and have to apply alternative strategies to survive. Diversification of production, wage labour, selling of assets or making do with fewer meals are the opportunities offered, but they are not equal choices. Although diversification is the obvious favoured solution, it requires access to credit, and credit requires collateral.

Health problems of the ethnic people remain severe. Studies undertaken in the Northern Mountain Zone report high prevalence

of malaria, dysentery, malnutrition, acute respiratory infections and female health problems as being most common. Other problems include iodine deficiency, bubonic plague and leprosy. The health services infrastructure differs greatly across provincial boundaries with better capacity in the Central Highlands than in the Northern Mountainous Zone. The main impediment to an improvement remains, however, bridging the cultural and physical gap between the ethnic people and the health personnel. Although it is tempting to explain the health problems of the ethnic people by referring to their ethnicity it is more likely that they are caused by their remote location and the fact that many of the ethnic minorities do not speak Vietnamese.

The question of language poses special problems for ethnic minority children. The language of instruction and teaching material is Vietnamese, a problem that is often compounded by the fact that several ethnic minorities have been moved to the same areas so that several ethnic languages are spoken in the same classroom. Government policy permits the use of ethnic language teaching and reform of up to 20 per cent of the curriculum to suit local needs, but this is very rarely done. The Government has recognised these shortcomings and is currently making efforts to redress the situation. In connection with a large World Bank loan the Ministry of Education is preparing primers in a number of ethnic languages. A multi-grade teaching programme initiated by UNICEF is another example.

Closely connected with the initial lack of proficiency in Vietnamese among the children is the lack of ethnic minority language skills among the teaching staff. The problem is recognised by the Government and a number of measures including incentives to Kinh teachers and ethnic minority students who want to become teachers have been introduced. However, efforts are often sporadic and the problem is not given enough resources and is not a priority.

Current Government Policies

The oldest of the Government programmes is the Fixed Cultivation and Resettlement Programme which was started in 1968 in order to settle migrating ethnic farmers in permanent settlements, terminate the shifting cultivation and provide adequate access to social and economic services. The assumption was, for many years, that provision of health stations, schools, water supplies and access to markets would be a decisive factor in convincing the ethnic people to remain in the areas allocated to them. The programme was

centrally planned and executed with little concern for the wishes and aspirations of the minorities or basic respect for their beliefs, skills, knowledge and customary laws, but is still in operation although with a different focus and absorbed in larger programmes. The economic reforms, however, strongly influence Party thinking.

The first and most important indication that a change was under way was Resolution 22 which was issued by the Party in November 1989 and confirmed the importance of the ethnic minorities for the development of the Nation, the development potential of the mountainous regions and their strategic importance but also contained a strong criticism of earlier policies in particular in the economic area. The resolution maintained that the creation of New Economic Zones (NEZ), State Farms and Co-operatives have contributed to the increasing poverty of the ethnic people rather than assisting in alleviating it. This resolution was followed by Decision 72 of the Council of Ministers in April 1990 to guide the overall economic reforms in the mountainous areas by assisting the transition to the market economic and the reinstallation of the family as the driving force in the reforms. This decision continues to play an important role in policy debates since it introduces the necessity to focus on the generation of income rather than the creation of self-sufficiency in food-production. However the guidelines were woefully short on concrete measures to assist the transition and did little to change the situation for the ethnic people.

In September 1993 the Government organised a national conference in order to review the implementation of the resolutions and, as a result, two landmark decisions were made. The first was Instruction 525 of November 1993 which included detailed instructions for the acceleration of development of the uplands and the ethnic minority areas. Secondly, a large-scale development programme, 327 Regreening of the Barren Hills, was launched. These two decisions form the cornerstones of the current policies and have already had a decisive influence on the life of the minorities. Unfortunately, the rapid increase in Government activities has resulted in a certain amount of confusion because of lack of clear definition of targets and lack of co-ordination between the various policies and programmes.

Critical Issues in Government Policies

The main issue in Government policies is the strong paternalistic although often benevolent attitude which pervades both the poli-

cies and the people who administer them. This attitude is not only reserved for ethnic minorities but also for other minority groups such as 'victims of social diseases'. During 1995, however, the Government participated in a number of international conferences which challenged this attitude and may have a lasting effect on its policies. A large Vietnamese delegation participated in the Social Summit in Copenhagen and its resolutions were pursued very vigorously both in the internal debate but also reflected in discussions with the donor community. The World Bank, UNDP, UNICEF and SIDA commissioned large studies on the poverty problem and included separate chapters on the specific problems of the ethnic people in their final reports. A senior member of the Council of Nationalities and an ethnic *Hmong* for the first time also participated in the UN Working Group on Indigenous Populations in August and started a dialogue with other members of the Working Group and the UN system. Another serious issue is that Government programmes are poorly targeted and tend to overlap. Essentially, they classify target groups based on the following criteria:

- Poverty status assessed by local officials
- Elevation of the area above sea level
- Agricultural system and settlement pattern

Ethnic minorities may qualify for assistance in accordance with all three criteria. However, most programmes combine assistance to ethnic people with Kinh who live in mountainous areas. Since Kinh live close to the urban centres and have more political clout, the ethnic people most often find themselves at a disadvantage in the competition for scarce resources. If they receive assistance this assistance is often programmed as welfare handouts like the Essential Commodity Subsidy Programme which tend to make them passive recipients of welfare. Efforts by the international donor community to introduce a more equitable classification system based on the UN Human Development Index is currently under discussion.

Apart from these issues, conflicts over land tenure remains the most serious threat to the survival of the ethnic groups. While the swidden cultivation system is no longer a viable and sustainable production system because population density has reached levels which makes it redundant, changes to their farming system makes it imperative to secure their holdings for prolonged periods that

make investments profitable. Unfortunately, studies of the effect of the current policies seem to point in the other direction. Land use rights, particularly in the Central Highlands are granted not to individuals but to larger bodies such as the clan and are not confined to land alone. This view clashes with Government legislation and land allocation practice. The swidden cultivation practices require that land lies fallow for prolonged periods. However such land is often classified as barren or idle and its use is restricted. The solution to this problem remains the biggest challenge to the ethnic people and the Vietnamese Government.

MALAYSIA

In Malaysia, the main challenges faced by indigenous peoples continue to be getting governments to recognise rights over land, rights to decide about the kind of development taking place, and rights to education and a way of life, as well as demanding for equal access to basic facilities. The Indigenous Peoples Workshop, an annual gathering of indigenous representatives from Sabah, Sarawak and Peninsular Malaysia, discussed these issues and worked out a plan of action for the coming year. The workshop, which convened in Sabah in August 1995, formalised the Indigenous Peoples Network of Malaysia comprising nine indigenous organisations - formal and *ad hoc* - and supported by three NGOs.

The Network members have been actively supporting each other through joint activities, campaigns and lobbying. Local campaigns in the form of small workshops to organise peoples' opinions on the land laws and their own *adat* was started in Sabah. This is in preparation for the launching of a campaign at the national level through a conference in August 1996 aimed at encouraging the people's struggle to assert their rights. The campaign is taking place on specific issues in the three regions - Sabah and Sarawak in East Malaysia and Peninsular Malaysia.

In Sabah, which is located in the northern part of Borneo Island, there are 39 different ethnic groups, making up 50 per cent of Sabah's total population of two million (this includes 506,900 non-Malaysian citizens, predominantly from Philippines and Indonesia). The law affecting indigenous or native customary land, which was first introduced by the British, is defective and in many instances, directly in conflict with the traditional land *adat*. Policies to



Performing the bamboo dance during the World International Day of the Indigenous Peoples 1995, Malaysia. Photo: PACOS

open up and grant land to government agencies and corporations for oil palm and tree plantations, building of dams, industrial areas and mining also continue to threaten or cause many indigenous communities to lose their traditional or customary land.

Many indigenous communities have also lost their land or suffered from the effects of logging when about 3,593,809 hectares or 48.8 per cent of Sabah's total forest area was gazetted as Forest and Park Reserves. Most forest reserves are intended for logging and communities were never informed that their customary land had been included in these reserve areas until logging companies came to log the area. Apart from forest reserves, logging is also allowed in 'stateland forests' (3,777,458 hectares). And once gazetted as a forest reserve, titling land within the reserve will not be accepted until the concession period (between 5 to 25 years) is over. Experiences in Tawau in the east coast of Sabah have shown that land does not revert back to the communities after an area is de-gazetted from a forest reserve. Instead it is alienated to other government agencies or sold to corporations for oil palm plantations.

Malaysia's 'Vision 2020' earmarked Sabah and Sarawak as the milking cow - the resource base - for raw materials, especially oil

palm and timber. As such, large tracts of land have been alienated to the Sabah Land Development Board (SLDB), the Federal Land Development Authority (FELDA) or sold to private companies for opening up oil palm plantations. Twelve per cent of the total land area has already been allocated for plantations, which includes customary lands of indigenous peoples. Non-recognition of indigenous peoples' rights to land have caused many to lose land with little or no compensation and lives have been disrupted due to resettlement.

The Sabah Forest Development Authority (SAFODA) is another government agency opening up plantations of *Acacia Mangium* and other fast growing tree species in various parts of the Sabah - the biggest of which is in the Bengkoka Peninsular covering 150,000 hectares of land. It almost covers the whole area and most of the *Rungus* people are now faced not only with limited land for planting hill padi - their staple food - and other crops necessary for survival but are also faced with many constraints due to hazards from the fire-prone tree plantations.

The government's policy to privatise its numerous agencies has led to criticisms from many indigenous communities and institutions. For example, when the Sabah Forest Industries (SFI) was privatised in 1994, the 288,623 hectares of land previously alienated to it under Section 28 of the Sabah Land Ordinance, 1930 became private property of individuals. The land was acquired for 'public purpose' - a tree plantation for a pulp and paper project.

Many indigenous communities consider it important to secure their ownership over their customary land by obtaining a title. Many ask for individual titles because communities are not informed of the provision for communal titles. However, many indigenous communities have since learnt that having a title does not guarantee security of tenure as titled land can be acquired under a compulsory order. The *Dusun* community of Tampasak/Babagon on the west coast found this when their land was acquired compulsorily for a dam. Lack of recognition over their traditional land and its importance to their way of life makes compensation a thorny issue. The villagers are still claiming from the government just compensation for their customary land and desecrated graves and demanding that it fulfil its pledge to improve housing, farmlands and basic facilities in the resettlement area.

Only a few communities have managed to 'stall' companies or agencies (projects are often revived later after they have been

cancelled) from acquiring their traditional land. One such case is the proposed oil palm plantation in Dalit, in the interior district of Keningau and home of the *Murut* and *Lun Dayeh* communities. In 1992, the Sabah Land Development Board renewed its plan to open up about 20,000 hectares of land - 5,000 hectares of customary land and another 15,000 hectares of Forest Reserve after the project was rejected in 1989. After a long struggle, the SLDB lost its bid to acquire the land in the four-times logged-over Forest Reserve area. The communities now have to prove the importance of their subsistence economy and seriousness in conserving the forest to stop the government from initiating another project that will dislocate their people.

In Sarawak, the estimated 10,000 *Penans* continue to face threats to their lives due to logging. Most of the *Penans* are now semi-settled and only 400 remain as nomadic hunter/gatherers. Because their life is intricately connected to the forests, it is imperative for them to stop the logging company. The last major blockade in Sungai Sebatu was dismantled by para-military and police personnel together with logging company workers in September 1993. A fact-finding mission in March 1995 uncovered continued threats and intimidation, rape and other assaults by para-military personnel. Gangsters were also reported to be hired by the logging company to kill people who oppose logging. The communities reported that the flying doctor service has been stopped (most of areas are only accessible by air and partly by road and on foot) but this was denied by the government.

The peoples struggle against the Bakun Dam project which was scrapped but revived in 1993 reached its peak in 1995 where forest clearing in the proposed reservoir area was stepped up in preparation for the dam construction. A local company, Ekran, has been awarded the dam project, estimated to flood 700 square kilometres affecting 8,000 indigenous communities (*Kenyah*, *Kayan*, *Penan* and *Ukit*). The Bakun Action Committee is actively campaigning against the dam construction and raising awareness of communities who are still not clear about the impact of the dam.

In Peninsular Malaysia, the status of *Orang Asli* land remains precarious. The total area of *Orang Asli* reserves actually declined by 2,764 hectares between 1990 and 1994 - from 20,667 to 17,903 hectares respectively. In these areas not gazetted as reserves, it has been difficult for some communities to resist pressures to move. The source of these pressures is varied: the government (as in the

case of Sepang in Selangor where the *Temuans* were resettled to make way for the new international airport), corporations (as in the case of *Stulang Laut* in Johore where the *Orang Laut* were relocated to make way for a business complex), and even individuals (as in several fringe areas where locals as well as foreign migrant workers are staking out Orang Asli lands for their own).

The last category is exemplified by the on-going Jeli case, where nine *Jahai* men are being charged for the death of three non-Orang Asli landgrabbers. They had gone to the *Jahai* settlement with three others and demanded that the Orang Asli vacate the place immediately. The three died in an ensuing scuffle when the *Jahai* came to rescue their headman who was being stabbed.

When one of the non-Orang Asli man involved in the scuffle was asked in court the reason for going to the settlement, he replied "to work my land". And asked for evidence of his ownership to the land, he said "I began to work on it so it is mine. The Orang Asli cannot own it as they do not have houses on it, only thatch huts". Nevertheless, the case continues with eight lawyers defending the *Jahai* accused, who are presently on bail. Thus far, the Jeli case appears to be in the Orang Asli's favour. Through this case and a few other court cases, as well as published materials, the issues of land rights and land loss are now beginning to emerge.

INDONESIA

Despite the fact that Indonesia bases its state ideology on 'Pancasila' (the five basic principles) which is rooted in the cultural riches of the Indonesian multi-ethnic society, the present state government does not recognise the existence of indigenous peoples. The argument is classic: that all Indonesians are indigenous. This view is a simplification based on the translation of the word indigenous, which in Indonesian is *asli* (original, the opposite of *asing*, which means foreigner). Compared to a country like the US, this argument is absolutely right. However, the term indigenous actually contains a broader concept: it has a political, cultural-historical, social, economic and religious dimension. Considering these facts, and to avoid a misleading interpretation, we in Indonesia translate 'indigenous peoples' as *masyarakat adat*.

Indonesian State Minister of Environment, Sarwono Kusumaatmadja, changed the term 'Indigenous Peoples Year 1993' into 'Tra-

ditional People's Year'. He also used the term 'vulnerable population groups' instead of indigenous peoples. The other terms that are normally used by the Government of Indonesia are *suku terasing* (alienated tribes), *masyarakat terasing* (alienated communities), *peladang berpindah* (shifting cultivators), *perambah hutan* (forest destroyer/squatters), *masyarakat primitif* (primitive communities). For the indigenous peoples, such terms are perceived as social and cultural discrimination and intimidation. The use of such terms legitimates the government's policy on indigenous peoples. Because they are seen as 'primitive', 'alienated', 'forest destroyers', shifting cultivators, they have to be modernised. They are seen as having no rights of ownership, no cultural heritage, no social and political organisation.

In terms of implementing this policy, then, the indigenous peoples are victims of development and the modernisation process. This policy and its implementation is partly caused by the Proposal for Action of the First UN Development Decade 1960-1970, which states that: "The problem of underdeveloped countries is not just growth, but development...Development is growth plus change. Change, in turn, is social and cultural as well as economic, and qualitative as well as quantitative..."

Following this view, the economic exploitation, cultural and social domination of underdeveloped countries or communities are considered valid if this is for economic, cultural and social change.

West Papua and Freeport

Amungme means the first people, one of the hundreds of ethnic groups in West Papua (Irian Jaya). Their language is called Amungkal. They are primarily a mountain people, though some of them dwell in lowlands. For them land has an extremely unifying and deep meaning in their lives.

"Land is a place where we live. It is land which gives life to us. Land is also where the souls of our ancestors live, and it is the strength of our life. Land is our mother who gave birth, fed us, cared for us, educated us and raised us so as to make the Amungme tribe be as it is now."

The 14,000 Amungme have been the object of exploitation and oppression by the government through the huge mining company, Freeport Indonesia Company (FIC,) since 1967. The current data

shows that the FIC has a total exploration and mine area of 2.6 million hectares covering the territory of the *Amungme*, *Comoro* and *Dani* peoples. The ore extracted throughout the FIC is over 100,000 dry metric tons per day.

The conflicts between Freeport-Government of Indonesia, on one hand, and the local people on the other, became hot news in 1995. The Indonesian Human Rights Commission and Bishop Monsignor Munninghoff (Catholic Bishop of Jayapura Diocese) agreed on the facts that 16 civilians had been killed and four disappeared in 1995. However, Australia's delegation led by Ambassador Alan Taylor concluded that 22 had been killed and 4 disappeared (*Inside Indonesia*, December 1995). Furthermore, the Indonesian Commission on Human Rights made four recommendations: (1) that action be taken against the military responsible; (2) that compensation be given; (3) that the local government and the military and Freeport clarify their relationship and lines of responsibility; and (4) that the 'security approach' and practice of stigmatising people such as Gerakan Pengacau Keamanan (the Breaking Security Movement /OPM - Papua Independent Organisation) be reviewed.

The report of the Commission does not pinpoint the direct involvement of Freeport in the case. Realising this fact, five leading NGOs in Indonesia, WALHI (Indonesian Forum on Environment), LPPS (Institute of Social Research and Development, Bishop Conference of Indonesia), LBHI (Indonesian Legal Aid Foundation), INFID (International NGO for Indonesian Development) and ELSAM (Institute for Policy Research and Advocacy), reminded the Commission that the Munninghoff Report stated that some abuses occurred on Freeport property using their facilities.

Krio Dayak Burnt out Timber Base-Camp

Dayak is a collective name for the Indigenous peoples of Kalimantan, who consists of 450 ethnolinguistic groups. The total Dayak population of Kalimantan is about 3 million. The total population of the Indonesian part of the island is 7.5 million. The arrival of capitalist development projects in Kalimantan since 1970 have been breaking the peacefulness of the Dayak, as well as degrading the environment of the oldest rainforest in the world. The most severe conflicts are between Industrial Tree Development Projects and the local Dayak people in several distinct areas.

On August 11, 1994, 1,600 people from nine villages in Sandai sub-district, Ketapang District, West Kalimantan, went on a dem-

onstration to protest against the Lingga Tejawana, an Industrial Tree Plantation Company operated nearby. The demonstration started at about 9.00 in the morning. On the previous day a bridge situated near Randau village had been burnt down by the protestors to break the transportation channel to Base-Camp IX, where the protest was taking place. The protestors wanted to negotiate with the project site manager. However, he was not there. The people were then confronted with the deputy site manager who acted very arrogantly and harassed the people, and in response the people started to burn down property of the company. The company's total losses are estimated to be Rp5 billion (US\$2.3 million), including 10 base-camps, 6 tractors, 4 zonders, 2 lorries, 3 cars, 2 graders, 30 chain-saws, 7 diesel machines, one bridge and ten hectares of plantation.

The event is the most spectacular action ever against the Industrial Tree Plantation Project in West Kalimantan. The *bupati* (District Head) went to the location the next day. There was no agreement achieved in the dialogue. The people wanted their land to be returned, and they wanted the company to do the land reclamation process before returning it to the people. "Return our ancestral land," then became a battle cry of the people.

This action reflects the local Dayak people's resistance to top-down development aggression. It was also in reaction to the ignorance of indigenous peoples' property rights. The *Krio*, *Pawan* and *Jekak Dayak* had never been consulted by Lingga Tejawana on its plan to open the Industrial Tree Plantation Project. When people complained because the company was destroying their fruit trees, the company replied that those fruits were not planted by the people. Moreover, the site manager told the local people that the Dayak are stupid. "Their brains are not in their heads, but in their knees".

In addition to such cultural intimidation, the company put up written notices on the people's land, such as '*hutan ini milik negara*' (the forest belongs to the state); '*dilarang berladang di areal HTT*' (no farming on the Industrial Tree Plantation location); and '*boleh berladang asal tidak ditanam karet*' (farming is allowed but no planting rubber). The company also felled the primary forest, barricaded off the water supplies and resources.

The people from the nine villages asked the company to compensate them for their cultural, social, religious and natural losses



The Krio Dayak of Sandai sub-district burning down the industrial tree plantation base-camp to preserve their forest and ancestral land, Indonesia. Photo: Stepanus Djuweng

to as much as Rp5 billion. The local government and the company refused to pay compensation. Instead, the government sent an extension team to persuade the people to surrender their lands. At the same time, the local military commander also sent troops to the area. The local people were told that the troops were not to intimidate the people, but for conducting war exercises to prepare themselves for a military mission in East Timor.

The people, facilitated by WALHI (Indonesian Forum on Environment), then went to Jakarta to express their concerns to the high level Indonesian officials. Now Lingga Tejawana has stopped its operations and has no clear status.

Bakati Dayak Protest Against the PT Nityasa Idola (NSI)

The Belimbing case stems from the same problem. The *Bakati Dayak* in Belimbing village were never properly consulted by the Nityasa Idola (NSI) when the company started its 120 hectare planting experimentation, located 5 kms from Belimbing, in Ledo sub-district, Sambas District, West Kalimantan. The company in-

tends to open 120,000 hectares of Pulp-Industrial Tree Plantation.

The local people had, as stated in their letter to President Soeharto dated October 11, 1995, asked the company to stop the activities, since the project would occupy the local peoples farm lands, reserve forest, fruit tree garden and sacred lands. The company replied that they had secured approval from the village via the village head and ten other community members. The people then wrote letters to the local House of Representatives, District Head of Sambas and other local government agencies.

On November 1, 1995, about 300 people went to the base-camp of the NSI. They wanted to negotiate with Mr. Suhanda, the site manager. Unfortunately, Mr. Suhanda had gone to town while at the base-camps the people were confronted with some 30 security personnel. The people waited for Suhanda at the front yard of the base-camp. The crowd began to get impatient. The elders then performed a ritual ceremony asking for strength in defending their *adat* (traditional) lands. At about 10 o'clock, Mr. Suhanda appeared at the site. He was accompanied by the sub-district head, the sub-district military commander and the sub-district police commander. The people shouted at Suhanda, asking him to stop the activities of the company. At the same time they asked him to sign a statement saying that he would stop the project activities. Under such pressure, Suhanda wrote a memo and signed it. The people rejected the document. They wanted a formal statement. The dialogue was halted and Suhanda, Security Officers and personnel and sub-district head then left the site. The people then burnt down the company cafeteria.

Today, the NSI have left Belimbing village, and the people have burned down all the property. An official record of the provincial office of the Forestry Department stated, "The activities of Nityasa Idola is temporarily stopped" without further explanation.

The Empurang Dayak and the ADB-Financed Industrial Tree Plantation Project

In November 1996, the Asian Development Bank (ADB) approved a technical grant at US\$ 330,000 to the Government of Indonesia to prepare a feasibility study on Industrial Tree Plantation projects in Indonesia. The study was done by Groome Poyry LT of New Zealand and Finland in cooperation with Ifdeco Indonesia. The study recommended, among other things, the development of a

12,000 hectare Industrial Tree Plantation in Sanggau District, West Kalimantan. To finance the project the ADB then approved a loan to the Government of Indonesia (Loan No. 1000-INO: Timber Plantation Development Project).

By 1990, Inhutani III (State-owned company) had started its activities in two sub-districts: Jangkang and Mukok sub-districts. In the long term the project will expand to cover an area of 300,000 hectares. This part belongs to Gudang Garam in cooperation with the Finnish company ENZO. In 2003, a pulp and paper mill will be developed in Subah, near the banks of the river Kapuas. This will be a serious threat to the ecosystem of the longest river in Indonesia.

When the part that is financed by the ABD was about to start, the local government and Inhutani III launched an extension programme to persuade the local Dayak communities to participate. As usual, the extension team promised that the project would bring various advantages to the local people. They promised that the local people will be compensated Rp37,000 (US\$ 15) for every hectare of land that they contributed to the project. The other promises were: the creation of thousands of jobs, public facilities provided such as roads, places of worship, village secretariats, and after six years of harvest the people would receive more money than they have ever had before. It was also said that whatever the people wanted, they could apply for it to Inhutani III. By September 1992 none of the promises had been fulfilled.

The Inhutani III started to construct a base-camp near Empurang village and the local villagers were not informed. The villagers then took action by burning the base-camp. Another protest was carried out by the people of Boyok village because the company failed to fulfil their promise.

In attempts to persuade the people to accept the project, Inhutani III set up a task-force. The task-force consists of officials, village heads and several villagers. The main duty of the task-force is to influence the people to surrender their lands. A record made by one local NGO shows that Inhutani pays monthly basic incentives to the members of the task-force. The amount of incentives paid depends on the formal position of the members. The same record also mentions that in Empurang only 35 per cent of the households still retain their lands and farm on their lands. The other 65 per cent have lost their lands and therefore they have nothing to farm.

In some villages the people are reoccupying their lands. The

reoccupying of this land is facing a serious problem. The Inhutani has set up 'security officials' and the people are not strong enough to claim their landrights.

The Tanimbar versus Liem Sioe Liong

Liem Siou Liong, the most powerful Indonesian tycoon, is logging a 164,000 hectare concession on Yamdena Island through his company, Alam Nusa Segar. Yamdena is the indigenous territory of the *Tanimbar*, one of the indigenous peoples in Maluku province. The Tanimbar's struggle to save their forest and environment is still going on after several years. On September 14, 1992, a dozen Tanimbar people burnt down company property and destroyed company equipment. Following this, 30 people were arrested and held for several months.

Aside from struggling to save the forest from logging, the Tanimbar people of Yamdena are also struggling to stop deforestation being carried out by a plantation company. Some 30,000 hectares of the island has been set aside for the development of the plantation by the state-owned company PTP-45.

Land Re-occupancy in North Sumatra

In North Sumatra, the *Langkat Malay* are making attempts to reoccupy their 250,000 hectares of land. The land historically belongs to 15,000 families Langkat Malay families. In 1821, the Dutch Colonial Government took the land from the people to develop the plantation project, on the agreement that the land would be given back to the people in 1953. However, the national government of Indonesia did not do so. In an attempt to claim their land, the local people formed 'Badan Perjuangan Rakyat Penunggu Indonesia' (BPRI). In 1995, the BPRI was offered 10,000 hectares of the land by the local authority. Temporarily, the BPRI seems to have agreed the offer.

EAST TIMOR

East Timor was invaded by its neighbour Indonesia on 7 December, 1975. Since then, at least 200,000 people, almost one-third of the population, have died as a result of war, starvation and disease. But Indonesia's annexation of the former Portuguese colony has never been recognised by the United Nations, and in East Timor itself there is still resistance against the Indonesian occupation.

The Responsibility of the Western World

The military government in Jakarta has often declared that the indigenous movement has been eliminated and that the armed struggle is over. But on every occasion subsequent events have denied these declarations as wishful thinking.

For Indonesia, the legal and political question about East Timor was settled in 1976 when the former Portuguese colony was annexed as Indonesia's 27th province. Since then, all events in East Timor have been an internal matter of no concern to the rest of the world, according to the generals in Jakarta. But the people of East Timor refuse to obey. They fight the bloody and illegal occupation in every way, at home as well as abroad. In spite of the overwhelming force of the Indonesians, the resistance continues, more than twenty years after the invasion. A new generation of East Timorese, that has never experienced anything but the Indonesian occupation, is in the forefront, even though the odds are against them.

Indonesia's invasion of the former Portuguese colony was a product of the cold war. Indonesia was seen as a 'bulwark' against communism in Asia. For this reason the generals in Jakarta were allowed to commit one crime after another, at home as well as abroad. Now the cold war is long gone, but this has had virtually no effect on the East Timor conflict. The generals in Jakarta still act as they have always done. Only now they are playing a new card, economic growth, which gives the West an opportunity to make huge profits.

Indonesia could not have occupied East Timor for more than twenty years without political, economic and military support from the great Western powers. Indonesia conducts its war with money and arms from the West. It follows that the Western states have a direct responsibility for the massacre of East Timor. Western support for Indonesia's brutal military dictatorship is a disgrace for nations which claim to represent noble principles such as freedom, democracy and respect for human rights.

Religious Contradictions

For historical reasons, the Catholic Church is important in East Timor. Portugal sent missionaries to the colonies, and in time many East Timorese converted to their faith. Following the invasion of 1975, the church became the only legal organisation not governed from Jakarta. This made even more people join it, because it was and still is the only legal way to demonstrate a protest against the

Indonesian occupation. Indonesia forces the East Timorese to speak Indonesian. But the church uses *tetum*, the most dominant language in the territory, thereby demonstrating its solidarity with the resistance movement.

Carlos Filipe Ximenes Belo has been the Catholic bishop of the former Portuguese colony since 1983. He is one of the few persons in this country who can openly criticize the Indonesians without being jailed or murdered for it. Recently, the bishop has warned against growing religious contradictions in the territory. He feels that the Indonesian authorities are consciously promoting this conflict.

Most East Timorese are Catholics, while most Indonesians are Muslims. More than 100,000 Indonesians have moved to East Timor since the invasion. This is a part of the government's population policy, known as *transmigrasi*, which aims to move people from densely populated areas such as Java to sparsely populated areas in the outer islands. With regard to East Timor, the government in Jakarta also has a plan to change the demographic composition of the population and many East Timorese fear that they will become a minority in their own country.

Bishop Belo was nominated for the Nobel Peace Prize in both 1994 and 1995. Although he did not get it, the mere fact that he was nominated is a sign that the question of East Timor is becoming more and more well known in the rest of the world.

The World Court and the Timor Gap

On 30 June 1995, the International Court of Justice at the Hague, known as the World Court, decided - in a 14 to 2 vote - that it could not rule on Portugal's case against Australia disputing the legality of the Timor Gap Treaty.

Portugal had brought a case against Australia concerning the 1989 treaty, which allows joint Australian-Indonesian oil exploration off the coast of East Timor, on the grounds that Indonesia's occupation is illegal and has never been recognised by the United Nations. This verdict was a disappointment to Portugal, to East Timor and its supporters, but according to the British Coalition for East Timor (BCET) it is not bad news at all:

First, it is necessary to remember that the 'victory' of Australia is a purely technical matter. The court concluded that Australia's part in the treaty could not be ruled upon without a decision upon the legality of Indonesia's occupation. The court insists it is unable to make that decision, as Indonesia does not recognise the authority

of the court in any proceeding, and that "it could not make such a determination ... in the absence of [Indonesia's] consent." More importantly, the court's decision contained a section stressing East Timor's right to self-determination, and referring specifically to the United Nations resolutions on the occupation. This section was not legally necessary, suggesting that many of the judges might have found against Australia, if their own rules of procedure had allowed.

It is ironic, says BCET, that Indonesia can be exempted from judgement on the legality of its actions simply by refusing to recognise the jurisdiction of the World Court, but this verdict is in no way a vindication of Australia's position, nor does it suggest that drilling in the Timor Gap under the 1989 treaty is in any way right or justified.

Political Prisoners in Indonesia

On 17 August 1995, the Indonesian authorities announced that they had reduced the prison terms of 26,000 prisoners, including Xanana Gusmao, the leader of East Timor's resistance movement CNRM. This was in commemoration of the 50 year anniversary of Indonesia's independence, proclaimed at the end of World War II in 1945.

Justice Minister Oetomo was quoted by newspapers as saying that the reduction varied from three months to nine months each, depending on the length of the term of sentence. He refused however to answer a question on the reduction given to Xanana Gusmao. He was also not willing to answer a question on how many political prisoners have benefitted from the reduction, saying only that 'most' of the country's 139 political prisoners were given reductions.

Xanana was captured in November 1992. In May 1993, he was sentenced by an Indonesian court to life imprisonment for his role as leader of CNRM, but three months later President Suharto intervened and reduced the sentence to 20 years.

In August 1995, the total number of prisoners in Indonesia was 29,397, and 87 per cent of them were included in the reduction of prison terms. Justice Minister Oetomo also said that seven prisoners, including two political prisoners who were sentenced to death, would soon be executed. But he refrained from disclosing their names.

When asked by journalists whether the soon-to-be-executed political prisoners were Sergeant Major Bungkus and Colonel Latief Cakraningrat, who were involved in an unsuccessful coup in 1965 and had been imprisoned for nearly 30 years, he said: "It is

possible. Maybe." (Other reports indicate that Sergeant Major Marsudi, not Latief, was selected for a speedy execution.)

Amnesty International estimated in 1995 that Indonesia had executed at least 22 political prisoners in the previous decade. In most cases, execution took place after the prisoners had served many years in prison.

A Resolution on Violations of Human Rights

On 21 September 1995, the European Parliament adopted a resolution on violations of human rights in Indonesia and East Timor. The parliament:

- Condemns in the strongest terms the Indonesian military oppression in East Timor and expresses its sympathy for the victims and their families.
- Calls for fundamental rights, including religious freedoms, to be respected in East Timor.
- Expresses its support for the people of East Timor in their struggle for the right to self-determination.
- Calls on the international community and in particular the Member States [of the European Union] to call an immediate halt to arms sales and any kind of military assistance to Indonesia and to suspend all economic cooperation while Timor remains occupied.

The resolution also mentions the recent decision of the Indonesian authorities to implement the death sentences imposed on the two Indonesian officers, Sergeant Major Bungkus and Sergeant Major Marsudi, both aged 67, who have been detained since 1965. The parliament is shocked over this decision and calls on the Indonesian government to annul the death sentences, to release all political prisoners and to grant an amnesty to all 24 prisoners still held in connection with the events of 1965. The wording of this resolution is surprisingly clear and strong considering that it comes from a branch of the European Union. Unfortunately, it has little chance of being implemented. Decisive power in the European Union lies with the Commission and the Council of Ministers, and they have no plans to interrupt the profitable contact with Indonesia. Human rights are important, but economic interests seem to be even more important.

New Disturbances in East Timor

In September 1995, riots broke out in Maliana, site of a prison where an official made anti-Catholic remarks. The riots quickly spread throughout the country. Some muslim homes, vehicles and shops belonging to Indonesian migrants were burned as well as a mosque. Demonstrations also broke out in other places (the capital Dili and Viqueque). Soon after, the Comorro Market in Dili was burnt down. In the following month, riots broke out in Dili as groups of young people blockaded various parts of the town following clashes with pro-integration Timorese. Police were said to have fired indiscriminately on crowds, breaking into homes, and generally terrifying people. According to the local police commander, at least two people were killed, 20 injured and over 200 temporarily detained. House to house searches for participants in the unrest continued into November. Many of those detained and released reported being tortured. Videotape later smuggled out of East Timor showed victims of torture, including some among the recently detained. Others, primarily young people, were said to have fled the city fearing for their safety. According to Amnesty International, "independent sources allege that the military provoked the unrest in September and the subsequent rioting in Dili in October through the use of agents provocateurs."

Twenty Years of Occupation

On 7 December 1995, a group of 115 East Timorese arranged a sit-in demonstration in the Russian and Dutch embassies in Jakarta in order to mark the 20 year anniversary of the Indonesian invasion. But pro-Indonesian demonstrators stormed the Dutch embassy and hit a number of people, including the ambassador, Mr. Brouwer, on the head with sticks.

Later, Indonesian riot troops entered the embassy compound, after which the East Timorese left. Their fate was uncertain, but one of them, named Putu, told the French news agency AFP that he and 54 others had been detained and "kicked, beaten and burnt with cigarettes" during a 24 hour long police interrogation.

"Asylum is the only hope for us," Putu said, adding: "We do not feel safe, and we are still being hunted by the authorities."

THE PHILIPPINES

Although the situation of Filipino indigenous peoples remains as precarious and as bad as ever, 1995 was a watershed year for organizing. Indigenous leaders and peoples organizations made the most of existing conditions and maximized whatever opportunities there were to assert their rights. The year also marked the emergence of spontaneous groups not led by an alternative movement or an ideological-political centre. These groups organized themselves mainly on the basis of defense of their ancestral domains and on the assertion of their identity.

Armed Conflict

Violence, particularly violence against indigenous communities has always been a regular feature of most administrations in the Philippines. Indigenous communities, the Islamic Moro groups and upland farmer peoples have usually been the victims of war and armed conflict raging in the countryside. Thus, when peace talks between the government and all other warring factions began, most Filipinos hoped for an end to decades of war and the beginnings of peace.

The Government of the Republic of the Philippines did conclude a peace agreement with the RAM or the right-wing military rebels last year. However, separate talks with the MNLF (Moro National Liberation Front - the most important and numerically strongest of the Muslim rebel groups fighting for independence or autonomy in the Southern Philippines) and the CPP-NPA (the Communist Party of the Philippines and their armed wing the New People's Army) are still bogged down in technicalities.

Moro factions, such as the MILF, have not joined the peace talks but are willing to abide by the agreements entered into by the MNLF. However, skirmishes continue to take place between MILF rebels and the military.

In 1996, there have been bombings of Christian churches in Zamboanga and the razing of villages in Cotabato in Muslim areas or near to Muslim communities. The military is quick to blame the Moro rebels. But everyone is in agreement that these acts are creating a climate of hate among different religious groups. These are being perpetrated to incite another Muslim-Christian war reminiscent of the 1970s.

The MILF has been reported to be recruiting non-Muslim tribal people into their fold. Reports from the T'boli area in South Cotabato indicate active recruitment of *T'boli B'laan* peoples into the MILF in what is known as the Balik-Islam (Return to Islam) campaign. Most of the affected Muslim and Christian communities are tired of war and would like to have peace. They don't want a repeat of the dreadful conditions of the past. The peace movement is growing, particularly in Mindanao. It is characterized by members from all peoples, religions and sectors on the island.

Militarization

Military operations of the large scale variety seen during the Marcos regime and to a certain extent during the Aquino Administration were not as evident over last year. Human rights groups which criticizing the record of the Ramos regime conceded that it has perfected the 'soft approach' in counter-insurgency operations. However, human rights violations, especially in interior areas, occur as a matter of course during military operations against rebels.

In Northern Luzon, plans for the Abulug-Gened Dam in 'rebel-influenced' Apayao kicked off with the deployment of two Philippine Army battalions and the reactivation and expansion of the paramilitary Civilian Armed Forces Geographical Unit (CAFGU). The CAFGU has been tagged as the military branch responsible for most of the documented cases of human rights abuses.

From the 18-19 August, units of the military's 401st Brigade (members of the 58th IB) bombed Balalaan, Barangay San Juan, Bayugan Town, Agusan del Sur in northeast Mindanao. Bombing sorties were carried out by warplanes, helicopters and shelling done with howitzers. After it was all over, 8 *Manobos* including children, were dead. The military had suspected the village of being 'rebel-influenced'. Four children who were wounded and orphaned by the incident were abducted and detained by the military. The rest of the residents, some 90 families, evacuated to safety. The military tried to cover up the incident. They claimed that the blasting was accidental and that the children they seized were the children of soldiers. To prevent the people from filing charges, they were given some medical assistance and cash. An agreement was made whereby they were forced to accept around P66,000 pesos in damages. It was a rum deal for the community. Most of the Lumads in the surrounding areas who heard about this cried tears of rage.

Another case in point is the evacuation of 32 *Banwaon* and *Talaandig* families in La Paz and San Luis towns in Agusan del Sur. Their villages were bombed from September 12-16, 1995. An average of 4 bombs were dropped daily in an operation that the military said was meant to flush out New People's Army guerillas. The operation, however, coincided with the decision of a logging company to resume activity in this area.

In Surigao del Sur, 11 barangays (smallest administrative unit) in 4 towns were subjected to aerial bombardments and ground operations from August 11 to September 2 1995 by the 29th and 67th IB of the Philippine army. Accompanied by 'food blockades', the series of operations wreaked havoc on more than 147 *Manobo* families who were forced to evacuate to other places. One *Manobo* youth was killed on suspicion that he was an New People's Army supporter. The bombings were claimed to be part of counter-insurgency operations but local residents reported the acceleration of logging operations after the military offensives. Earlier, the indigenous communities of Tandag, Lanuza and San Miguel had applied for ancestral domains claims. Logging concessionaires in the province had registered their opposition to their claims.

In Capiz, Panay Island, the 3rd Infantry Division of the Philippines army told the indigenous *Sulod* residents to leave their barangays. The Psychological Operations Unit of the 3rd Infantry Division simply arrived at their villages. The barangay officials were called post-haste and it was announced that there would be firing, shelling and bombing of the area. The people were ordered to evacuate without any assurance that they could return after the military exercises.

The Army commander, Gen. Jose Lapuz, denied that the *Sulod* were indigenous peoples and called them squatters. Military exercises included the shelling of Mt. Pula in March 1995 which resulted in fear and panic among indigenous peoples in Tapaz-Jamindan border causing the evacuation of 188 families in three days.

However not all armed conflicts resulted in the defeat or evacuation of the people. The area of Lantad in Balingasag, Misamis Oriental has been a hotbed of rebel activity since the 1980s. Many of its young people joined the New People's Army (NPA) rebels becoming part of the 'Pulang Bagani' (Red Warriors) units. Because of this, military operations had been conducted against the people again and again. Several times people evacuated their ho-

mes. Most of the residents there only returned to the area three years ago after evacuating it. Upon their return the military tried to control the area such that they have permanent psychological-war personnel stationed there.

In March 1996 the *Higaonon* *datus* of the Misamis area held a *dumalundong* or a meeting of indigenous leaders and their warriors. From the start, the military tried to coopt the meeting and control the rites by offering to finance and give food for the *dumalundong*. Also the NPA tried to intervene and to set the agenda. Although tensions are high because of the incident, it has shown just how the *Higaonon* in Lantad have become more independent and assertive. They actually told the military not to interfere and criticized the NPA for their methods.

Dams

Government and corporate intrusion into the indigenous peoples' ancestral domains continues unabated. Under the banner of 'Philippines 2000', the Ramos administration continues to allow 'flagship' development projects and investments in indigenous areas.

Two dams are to be built by the government in Northern Luzon amidst protests and resistance from indigenous groups. One of these is the P10.6B Casecnan MultiPurpose Irrigation and Power Project (CMIPP) in Nueva Vizcaya. This involves a BOT (Build Operate and Transfer) scheme which will install a 25km mountain tunnel from Nueva Vizcaya to Nueva Ecija. BOT is a contractual arrangement between the government and private companies, according to which the company is supposed to build the facility in question, operate it for a certain time, and after that sell it to the government which will run it as a state enterprise. The area is in the ancestral domain of the indigenous *Bugkalots*. An underground hydro-electric power plant will be built which will generate 140 megawatts to feed the Luzon grid. When completed the project is expected to irrigate 50,000 hectares of farmland in Pampanga, Nueva Ecija, Tarlac and Bulacan but not in the areas most affected by the project. President Ramos himself has promised that the people will not be displaced by the project. However, protesters have petitioned for an immediate stop to the project. Many of the protesters are from the Cordilleras who settled in the province in the 1950s after they were displaced by government's early hydro-power projects.

The DENR (Department of Environment and Natural Resources) for its part is issuing as many CADCS (Certificate of Ancestral Domain Claims) as possible and at an increased pace. This is to make people more comfortable with the project. They believe that the issuance of CADCs will assure the people that their rights to their ancestral domains are a priority of the Ramos regime.

Meanwhile in the Cordillera, in the Benguet Pangasinan border, the *Ibalois* are up in arms against the projected P22B San Roque Multi-purpose dam project. It is one of the administration's flagship projects in power generation. It will tap the powerful Agno river and is projected to irrigate 70,000 hectares of land. The 365 megawatt hydroelectric plant will be constructed in Barangay San Roque which lies at the border of two provinces.

The National Power Corporation (NAPOCOR) plans to declare 49,000 hectares of the municipality of Itogon's 49,800 hectare total land area as part of the dam's watershed. This will affect Itogon's barangays including Gumatdang, Loacan, Poblacion, Tuding, Ucab and Virac.

The Industrial Forest Management Agreement

The Industrial Forest Management Agreement or the IFMA being peddled by the DENR, theoretically awards a reforestation project to any corporate body of the private sector. These can be people's organisations and communities. But on the whole most applicants and most people given IFMAs especially in Mindanao are corporations and big businessmen.

Lumads in Mindanao continue to decry the DENR's bias towards big business as opposed to the indigenous peoples. A number of Mindanao Lumads have started to delineate and survey their ancestral domains through the DENR's Department Administrative Order No. 2 (DAO 2) which calls for the issuance of CADCs. Even when they go through the DENR processes, the Lumads complain that the DENR is going slow on the issuance of CADCs while fast-tracking the issuance of IFMAs to corporations.

In 1994 and throughout 1995, NGOs discovered that the former DENR Secretary signed over to a foreign corporation more than 6,000 hectares of the Agusan Marsh National Park in Bunawan, Agusan del Sur to the Taiwanese Forever Fertility Development Corporation as an IFMA. The said corporation was going to plant edible bamboo in the area and harvest bamboo shoots to be proc-

essed and canned for export. Planting the exotic bamboo species calls for the cutting down of indigenous vegetation in the area. Agusan Marsh is the only peat-bog type swamp of its kind in the Philippines.

The DENR of the new Caraga region (of which the province of Agusan del Sur is a part) has a notorious reputation for corruption and its bias towards big businessmen and loggers is legendary. Just this February, members of a *Manobo* people's organisation barricaded the regional office of the DENR in Prosperidad, Agusan del Sur, to protest against the DENR's slowness in processing their CADC claims while making it easy for a well-known Chinese businessman in Butuan City to get an IFMA.

In South Central Mindanao, a fact-finding mission went into the Kalamansig area in Sultan Kudarat in Cotabato in September 1995. Here, an 11,000 hectare IFMA was released to the prominent Mr. Victor Consunji. The IFMA has deprived the *Manobo* people there of their ancestral domains. Residents have complained of harassment surveillance and threats from Consunji security guards. Armed men have been roaming the area and stopping them planting their crops.

ALSONs (Alcantara and Sons) took and transformed more than 13,000 hectares of prime agricultural land on *Ata-Manobo* territory into plantations of falcatta and acacia mangium. The people's crops and fruit trees were cut down forcibly and without consultation. The *Ata Manobo* were then prohibited from ever planting within the area again. In 1994, company officials threatened the people with violence. They said that their communities would be bombed and their leaders killed. Military patrols by regular army units reinforced pressure on the villages.

Early in 1995, a fact-finding mission was prevented from entering the communities in Talaingod town in Davao del Norte province. The area was part of the 13,000 hectares which the IFMA granted to ALSONs. The *Talaingod Manobo* tribesmen had ambushed some of the ALSONs employees after they declared a *pangayao* or a tribal war against the company. The *pangayao* was declared to assert their ancestral claims in opposition to the ALSONs take over of their area.

Mining

Foreign mining companies all over the Philippines have become bolder since the Mining Act of 1995 which offers them very generous incentives for mineral exploration and exploitation. Among

these is the Western Mining Corporation of Australia. The *B'laans* of South Cotabato have accused the Western Mining Corporation of plotting with government to take over their ancestral domain near Mt. Matutum. NGOs and peoples' organisations are saying that the "environmental and social holocaust the operation would cause is irreversible and will cause permanent damage".

Western Mining Corporation Philippines or WMCP was granted an FTAA (Foreign Technical Assistance Agreement) through the Mining Act of 1995. This FTAA accords the company the right to large-scale exploration, development and utilization of minerals for a period of 25-50 years on a total land area of 99,400 hectares covering the boundaries of South Cotabato, Sarangani, Sultan Kudarat, Davao del Sur and North Cotabato.

The FTAA, together with the option agreement with the Tampak Group of Companies, technically gives Western Mining a total 109,400 hectares of land for exploration and exploitation. It also has three pending FTAA's in areas contiguous to its current FTAA which will cover approximately 400,000 hectares.

WMCP has come up with a package of benefits as part of the social acceptability component of the company. *B'laan* critics say that these are nothing more than promises to encourage *B'laans* to accept the company.

Passage of the Mining Act has also created a surfeit of applications for mining concessions all over the country especially in the Zamboanga peninsula and the Cordillera. Among these are the New Crest Exploration Philippines Inc. (NEPI) whose Foreign Technical Assistance Agreement (FTAA) covers 13 municipalities in Abra besides areas in neighbouring provinces of Kalinga, Mountain Province and Benguet. The Abra Provincial Multisectoral Forest Protection Committee has already claimed that the mining group's activities may cause massive environmental degradation in the province especially in vital watersheds.

The Mining Act

What really galled indigenous peoples in 1995 was the midnight passage of Republic act No. 7942 also known as the Philippine Mining Act of 1995. Approved in March 3, 1995, it gives almost blanket permission for foreign mining companies to take over mineral lands in indigenous peoples' ancestral domains. Indigenous communities were really offended when the Congress took a very short time to have this law passed while the indigenous peoples

have been lobbying for almost ten years for an Ancestral Domain Law. The indigenous peoples worked hard to have the then House Bill 595, also known as the Andolana Bill, passed, but only to have it shelved on the third reading by the same Congress which passed the Mining Act.

The Act also gives an opportunity for 100 per cent foreign-owned corporations to engage in the mining business upon the approval of the President. It encourages transnational companies (TNCs) to slowly take over already established Filipino corporations primarily because of their advantage in advanced technology and capital. Furthermore, the provisions of the Act on timber, water, eminent domain and easement rights clearly violates the rights of indigenous peoples. The passage of the Act elicited very strong reactions from indigenous organisations, especially the groups associated with the Cordillera People's Alliance (CPA) whose membership includes small-scale miners' organisations.

Terror Bills

After the elections of 1995 and the political manoeuvring of the elite political parties, 1996 saw what seemed to be a consolidation of the Ramos political forces within the elite political structure. Two lawmakers, former 'Martial Law architect' and leader of the military rebellion that precipitated the overthrow of the Marcos dictatorship, Senator Enrile, and former Marcos postman, Congressman Roilo Golez, introduced what are now called the Terror Bills. The proposed legislation was supposedly designed to curb terrorism especially with the increase in bombings and terrorist attacks in Metro-Manila and in Mindanao. Civil liberties groups and NGOs saw the bills as an intended attack on civil liberties and a move towards Martial law.

Different groups including indigenous peoples organisations and support NGOs mobilized their members against the passage of the Terror Bills. The pressure seemed strong enough to cause the House Speaker, a very reliable Ramos ally, to back out of backing the terror bills which Malacanang has deemed urgent.

The protests showed that there was still a critical mass of politicized Filipinos who have remained vigilant against authoritarianism. But some analysts think that there is no need for Ramos to actually declare Martial Law to consolidate power. This is because they observe that a 'creeping coup' is already taking place with a

takeover by ex-generals and retired military officers of key cabinet and administrative positions.

Consultations on the Indigenous Peoples' Legislative Agenda

In 1995, Ramos appointed two sectoral representatives for indigenous peoples to sit in Congress: a *Teduray*, from Mindanao associated with the governments' Office for Southern Cultural Communities (OSCC) and the Tribal Communities Association of the Philippines (TRICAP) and an *Ifugao* from Cordillera associated with the peace movement. With the help of a consortium of NGOs, the latter got funding for six regional consultations and one national consultation on the indigenous peoples' legislative Agenda from the Office of the Presidential Assistant for the Peace Process (OPAPP). The goal of the consultations was to come up with an Ancestral Domain Draft Bill to be presented in Congress. The consortium went all over the country to ensure a broad-based consultation. Initial reactions from indigenous organisations and NGOs was sceptical because of the record of Congress. However, most of the peoples' organisations still gave it a try. The general agreements for the non-negotiable features that any legislation on Ancestral Domain should contain were the following :

1. The law must give full recognition to the right of indigenous peoples to ownership and management of Ancestral Domain;
2. It must respect indigenous culture, justice system, concepts of ownership, land use and resource utilization;
3. It must contain special provisions which will take into account different conditions pertaining to the possession of territories and the degree to which indigenous culture is preserved (some indigenous communities have intact territory and intact culture, while others are dispersed and their culture threatened);
4. Indigenous peoples themselves should identify and delineate their ancestral domains;
5. Sufficient funds should be provided by government so that the law may take its full effect; and,
6. It should prevent government and private interest groups from further encroaching on indigenous territories.

Participants agreed that the above-mentioned features were to serve as initial bases of unity among NGOs in pursuit of legislative advocacy work. The NGOs likewise committed themselves to strengthen their unity through regular consultations and other meaningful exchanges.

The National Consultation was held at Pagsanjan, Laguna on December 15-17, 1995. Here the participants agreed upon a draft bill. The draft bill contains all the positive features from previous bills on ancestral domains filed in Congress and especially the inputs/points agreed upon in all the regional consultations by all the indigenous participants.

Since the indigenous sectoral representatives have not yet been confirmed by the Commission on Appointments, they cannot file this bill. Thus, in 1996 the omnibus draft bill was polished by a drafting committee and presented to Senator Flavio who will most probably sponsor it. Congressman Andalana has also read the Bill and acknowledges some of its better features. He has promised to study it further.

The original proposal for the draft bill was a bill on ancestral domain whereby the state would recognize the indigenous peoples' 'native title'. However, the consensus among the indigenous participants was for a draft bill to include all other indigenous peoples' concerns such as ancestral land, human rights, discrimination, preservation of culture and an indigenous agency whose main concern is indigenous peoples' ancestral domain and indigenous rights.

The indigenous peoples see the bill as a major accomplishment and they are very proud of it. They are very well aware that Congress will water it down, shelve it and cut it to pieces. But their organisations are already preparing for the next step which is to lobby in Congress. For many of the indigenous organisations involved in the consultations what mattered most was that the consultations provided them with opportunities for inter-tribal sharing of experiences, making links and consolidation of their organisations.

Organizing Efforts

The past years have seen a disappointing trend towards weakening and splitting of indigenous organisations, particularly national and regional federations. These splits have been accompanied by re-criminations and mudslinging on both sides.

Dissensions in indigenous ranks are in no small measure also due to the splits in the national democratic movement led by the

Communist Party of the Philippines (CPP) which for a long time was the leading force for change even among indigenous organisations and federations. The split was reflected among advocacy NGOs and indigenous organisations and federations. While disappointing, this has led many indigenous leaders and members to rethink and take a long hard look at their erstwhile alliance with the so called alternative mass movements and ideologically-based political groups. Regional and local groups are increasingly meeting challenges on their own. Also, new organizations are sprouting spontaneously and old organizations are reviving or regenerating along more independent and more indigenous lines.

The Cordillera People's Alliance (CPA) in the Cordillera has been able to recover from organizational problems faced the years before. Leaders and organizers have taken a firm and radical stance regarding indigenous issues but they have retained openness, flexibility and resiliency with other forces. For example, the CPA still leads the other indigenous federations in its capacity to muster international support and in its international linkaging. The CPA rejects any form of delineation of specific ancestral domain claims in the Cordillera claiming that the entire Cordillera is the ancestral domain of the Cordillera people. They have therefore concentrated on working for genuine regional autonomy and self-determination for the Cordillera peoples.

The leadership of the Lumad Mindanao has separated from the national federation, KAMP, in an atmosphere of mutual recriminations. It is now attempting to launch a quiet comeback. They are organizing silently and are experimenting on 'new' forms of organization. Instead of building up a federation with indigenous organisations created on the basis of past regional-political areas of work, the leaders and organizers are concentrating on organizing by tribe and ethno-linguistic affiliation. This, they say, better reflects and respects their indigenous kinship systems and native socio-political structures.

In December 1994, the Pambansang Lupon ng mga nakatatanda sa Tribu (National council of Tribal Elders) or the PLANT, a national indigenous federation was born. Most of the members of PLANT were the partners of a para-legal NGO. The organisation's leaders initially created the organization to get a better deal from their NGO partners.

In 1996, the group came up with a program-of-action geared mainly towards education of their organisations and the defense of

their ancestral domains. Having learned their lessons from both government and alternative political movements, the group is very cautious with its statements and actions. It takes pains to point out that most of its organisations belong to different networks thus it has no intention of competing, and would rather coordinate, with other national indigenous federations, for example, KAMP.

In Cagayan de Oro, a provisional Council of indigenous leaders was created uniting leaders of the *Higaonon*, *Subanen*, *Manobo*, *Bukidnon*, and *Talaandig*. The Council was created as a result of various indigenous leaders of Northern Mindanao meeting together for the first time during the Indigenous Legislative Agenda consultations. Despite differences in experiences, networks and affiliations, the ad hoc council felt that it was time to have a mechanism to coordinate indigenous efforts towards defending their ancestral domains. The Ad Hoc Council is seen as just a temporary mechanism and a focal point for the activities of indigenous leaders and elders in the sub-region.

One issue that is being debated among indigenous organisations and support NGOs is the delineation and survey of ancestral domain claims. A growing number of indigenous organisations are delineating their ancestral domain claims through the process stipulated in the DENR's DAO 2. The process calls for the survey and delineation of ancestral domain claims and presentation of proof of occupancy, etc., before a Certificate of Ancestral Domain Claim (CADC) is issued.

The camp of KAMP, the CPA and radical indigenous organisations affiliated with alternative movements reject the DENR's program, saying that there is nothing to be gained from a CADC as it will only divide the people. In many indigenous peoples' areas, unscrupulous local government officials and some indigenous leaders are applying for CADCs only to turn the land over to investors. Sometimes bigger and more powerful tribes or groups are staking claims even on the ancestral domains of weaker neighbouring tribes. Furthermore, the CADC is nothing but a certificate of claim. It is not a title.

While indigenous organisations that have gone into delineation through DAO 2 processes speak of some advantages as well, they all agree with the criticisms levelled against DAO 2. But the most successful indigenous organisations that were issued CADCs went through DAO 2 processes with open eyes. They knew the pitfalls.

They are saying that it is after all a choice for each indigenous community whether to delineate on their own or through government processes. The right to self-determination is still the main principle. They should not be criticized as selling out to the government by applying for CADCs.

What the indigenous organisations actually saw was the organizing, educative and mobilizatory potential of community mapping of ancestral domain claims. They transformed community mapping into a learning experience for the entire community. Instead of limiting delineation to leaders and technical personnel only, indigenous leaders involved the entire community. They recalled the epics and legends that showed that their ancestors actually occupied and lived on specific parts of their domain in different times. They recalled once again, the stories of their struggles to their children who had forgotten the old stories; their roots. The process has become a massive identity-awareness opportunity.

Also the people learned to face the government, local government officials, the DENR and Congress people. Each engagement adds to the peoples' political experiences. And the leaders are always learning and informing the people what they are learning.

NAGALAND¹

As in past years, throughout 1995 India imposed the 'Disturbed Area' Act on most parts of *Naga* areas in India. Any place declared a 'Disturbed Area' comes under Military Authority and all fundamental rights/civil rights are suspended automatically. The Army down to the rank of 3 stripes have the power to "fire upon or otherwise use force, even to the causing of death" against any person/s acting in contravention of any law or order in force in the disturbed area; to prohibit assembly of five or more persons, to prohibit carrying of things capable of being used as weapons, to search and arrest without warrant, etc. This is done under the Armed Forces Special Powers Act 1958 (as amended in 1972).

The law provides that any area becomes a 'Disturbed Area' when the Governor of the state notified that it is so through the official gazette because he/she is of the opinion that the area is in

1. Nagaland means the whole of the ancestral land of the Nagas which includes Nagaland state.

such a disturbed or dangerous condition that the use of forces in aid of the civil powers is necessary. Here it is the personal decision of the Governor, the state Assembly does not have the power to advise. The basis of the Governor's decision cannot be tested anywhere, so it depends entirely on his wishes and he is virtually an agent of the Central government. Furthermore, the law forbids taking legal action against any person in respect of anything done or purported to be done in exercise of the powers conferred by the Act.

Human Rights Situation

Recognition of and respect for human rights is a thing of the past in the areas where the Armed Forces Special Powers Act is in force. With the Act providing virtually total legal impunity, the Indian Armed forces in Naga areas have routinely harassed, tortured and detained members of the public or even shelled whole towns under various pretexts.

On March 5, 1995 an Indian army convoy carrying over 600 soldiers of the Rashtriya Rifles passed Kohima Town when the tyre of one of the lead vehicles burst with a loud noise. The bursting sound was taken for an attack by the Naga army and some of the Rashtriya Rifles opened fire immediately. Others followed by firing at Naga pedestrians who were passing by. They instantly hit 17 persons and four of them died on the spot. The soldiers then started shelling with mortars and RPGS into the thickly populated area of Kohima town. The Rashtriya Rifles were soon joined by the 29 Assam Rifles and the Central Reserve Police Force at various points of the town. The army ran through the streets attacking any civilians in their way for about 2 hours. During this ruthless attack 8 civilians including 2 children were killed, more than 150 injured and 136 were taken into custody. Hundreds of homes were looted and more than 50 houses were destroyed or damaged by shellfire.

This was also the result of shelling with mortars and indiscriminate shootings in Ukhrul Town, Manipur state, on May 9, 1994 and in Mokokchung town on December 27, 1994 by the 20 Assam Rifles, the 16 Maratha Light Infantry and the 10 Assam Rifles in which a total of 15 civilians were killed and three women raped.

There have been many more incidents of the Indian armed forces firing indiscriminately in towns and villages in Naga areas in 1995. To cite a few more examples: Akuluto town in Semi area, Nagaland State, was subjected to indiscriminate shooting by the Indian army on 23 January, 1995.

In yet another instance of sadistic assault, Mr. Inashe Ayemi, an officer of the state, his driver and an assistant Md. Khadir, and Ram Bahadur were killed by a rampaging contingent of the Indian army in Dimapur, Nagaland state on September 7, 1995. There was a brief exchange of fire between a contingent of the Indian army and a group of people suspected to be insurgents in the locality just a few minutes before Inashe Ayemi arrived with his driver. They were said to have been getting out of their car when gun shots began to ring out again. Md. Khadir and Ram Bahadur run to the third floor and climbed to the terrace-roof to see. There Khadir was hit by a stray bullet. It was not a fatal injury. As people in the house were rushing Khadir down from the roof, Indian Army entered their house and on seeing some people lifting a person with bleeding wounds, the army attacked them. Inashe Ayemi moved forward pleading to be heard first but was knocked down with a full swing of Carbine on his head. They continued to hammer him furiously breaking his skull and knocking out his eyes from the sockets. Ram Bahadur and Khadir were taken along with Inashe's dead body and tortured to death.

On 11 March, 1996 at about 03.30 am a group of armed personnel believed to be the Naga army from the National Socialist Council of Nagaland (NSCN) attacked the 20 Assam Rifles outpost at Huishu Village. The encounter continued till 07.00 am. The villagers who were caught unaware by the burst of gunfire ran for safety, leaving behind all their belongings. One third of the villagers who had gone to participate in the Centenary Celebration to mark the coming of Christianity at Ukhrul (East district headquarters) could not return home because of the reign of terror unleashed by the Assam Rifles. The fleeing villagers, mostly women and children, were heading towards Poi Village (about 4 kms North Huishu) led by one Mr. Paisho. They were intercepted by the reinforcement from Poi post firing towards the unarmed civilians. Mr. Paisho (who was sector leader of Village Volunteer Force attached to SSB, Poi Post) intervened to try to stop the Assam Rifles personnel to stop firing at the civilians to avoid any casualty. The Assam Rifles arrested Mr. Paisho. The women were used as human shields to walk in front of security personnel who placed their assault rifles muzzles on the women's shoulders and herded them back to Huishu village.

Even after the armed National Socialist Council of Nagaland (NPMHR) withdrew from the scene, the firing by the Assam Rifles

continued till 07.30 am. After the firing had ceased, the Assam Rifles started looting valuables and razed 103 houses out of a total of 107 houses in the village including 19 paddy granaries worth several lakhs of rupees.

Those who could not flee were detained inside the local church for three days, all without food except for a few infants. Others who hid in the jungle returned to their village when the Deputy Commissioner and Superintendent of Police along with a medical team and leaders of various social organizations reached the village in the afternoon of 13th March, 1996, only to see their houses and household properties razed to the ground. The glass of the church windows was completely shattered, and the church quarters where the women's society office was located had been gutted.

On the same evening the badly tortured bodies of Mr. Paisho and Mr. Kumar (a Nepali labourer) were found riddled with bullets on the outskirts of the village. The Assam Rifles claimed that they were killed in the encounter. But both had been taken into custody by the Assam Rifles after the fighting was over.

Attack on the Human Rights Activists

On 19 June 1995 in a blatant attempt to suppress the human rights movement by force, Shelley Chara, a highly respected human rights activist from the Naga Peoples Movement for Human Rights (NPMHR), was shot dead by 2 gunmen at his residence in broad daylight. The persecution and harassment of human rights activists is a commonplace experience but this premeditated killing has hurt the people deeply and massive protest rallies were staged in different parts of Manipur state where he was killed. Since his return from the 13th Session of the UN-WGIP (United Nations Working Group on Indigenous Populations) in Geneva 1994, he was said to have been constantly shadowed by Indian secret agents. India has denied any role in his killing and instead claimed to have apprehended his assassins in July 1995. However, to date, no one has been formally charged for the killing.

The India Government has also been stepping up its persecution and harassment of Luithui, the AIPP (Asia Indigenous Peoples Pact) Secretary General and a well-known human rights activist and his wife Peingamla. On July 2, 1994, Peingamla's passport was pick-pocketed in a crowded market place in Bangkok, and the Indian Mission in Bangkok took advantage of this situation to refuse her a duplicate passport (she was not given even a travel

document). Instead, the Indian Mission launched a false propaganda campaign against Luithui with the aim of getting his wife immediately arrested in Thailand since she no longer possessed a passport. According to a source close to the Home Ministry of India, it has twice sent the Home Secretary to Thailand to lobby for Luithui's arrest (T.V.R. Shenoy's article 'Curious Case of the Ibrahim Brothers,' *Economic Times* 13.02.96). India has also refused to issue additional visas to Luithui is a move to immobilize him.

The Government of India has been widely condemned for this. Participants at the PP-21 Convention of Civil Society and Human Rights, Kathmandu, 8-10 March 1996 issued a statement condemning the Indian Press and the Indian Government and called them to immediately stop the illegal action and harassment. In Delhi scores of NGOs and student leaders and imminent persons have jointly released a response to T.V.R. Shenoy's article, calling on the *Economic Times* not to "allow itself to be used by interested sections of the bureaucracy in its illegal campaign against a citizen".

Some Encouraging Signs

For most of the last 42 years, i.e. since the beginning of the military occupation of Nagaland by India in 1953, the bulk of the Naga population has been living in a situation where they are continually confronted by Indian state terrorism. To hide the pain and the shame inflicted by state terrorism, the Indian elites have propagated unfounded stories about the Naga in the Media, the state apparatus and through the schools in order to scare visitors away from Nagaland. They have instigated riots and attacks on members of the human rights movement in order to suppress facts. When these have not seemed to work, the Ministers and their Press talked of the need for a political settlement of the issues.

This time, the Prime Minister of India and his deputies are also calling for a political solution. However, any serious move towards finding political solutions to the long standing issues would require wide consultation with the people. Otherwise, it will merely end up as yet another pacifying step.

The NPMHR has prepared the ground for launching the second phase of the campaign to repeal the Armed Forces Special Powers Act, 1972 in collaboration with many organizations and eminent individuals. For the first time, Citizens for Democracy, which in many ways represents the elder statesmen of India, has come forward with concrete steps to facilitate open dialogue between the

Nagas and the Indian public. This is a very positive step in the direction of preparing the public to realize the historical reality, namely that imposition and assimilation has no room in a democracy.

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1. Van Gujjar and Jaunsari

2. Jumma

SOUTH ASIA

INDIA

Uttar Pradesh

If, in the very near future, an amateur radio operator in India listens in to a CQ call and hears the roar of a tiger or the trumpeting of a wild elephant in the background he will know that it is from the forests of the proposed Rajaji National Park. The call will probably be from a *Van Gujjar* alerting his fellows to the movements of wild game poachers, or timber smugglers, or a forest fire, or maybe it could be an emergency call for medical assistance.

The above scenario is remarkable in that the Van Gujjars had, until as late as mid-1995, been on the brink of being thrown out of these very forests. This move to expel them from the forests, stop their transhumance practice and settle them in areas inhospitable to them would have traumatically severed them from their centuries-old lifestyle. This in turn would have effectively made them lose their cultural and indigenous identity. Today they have organised themselves and are claiming their legal rights and entitlements accruing to them as a forest dwelling transhumant indigenous people. The proposed park authorities are no longer pressurising and coercing them to leave the area and have renewed their permits for practising transhumance to the high altitude Himalayan pastures in the summer months.

An independent research team comprising of international experts on environmental studies and anthropology and national experts in the field of law and forestry, assisted by the Van Gujjars themselves, has formed a Community Forest Management of Protected Areas plan. This plan, when implemented, would create the first People's National Park in India. The plan aims at protecting the ecosystem and wildlife of the Shiwaliks, and the rights, needs and lifestyles of the Van Gujjars and local villagers. It is envisaged that this will give the people the possibility to make their own choices about where they wish to live in an environmentally and

economically sustainable manner, be it in the forest or out of it. These objectives will be addressed through five complementary strategies: a core area community forest management structure, a villager minor forest produce committee structure, a community enforcement structure, support for the Van Gujjar nomadic lifestyle by the forest department, and Van Gujjar development priorities. The plan is in keeping with the provisions of the Indian Constitutions for the individual's fundamental right to life and use of land.

The Van Gujjar Pastoralists

The Van Gujjar pastoralists inhabit the forests of the plains during the winter months and the highland Himalayan pastures during the summer to support their buffalo milk production. A kinship exists between them and the animals of the wild because they perceive both to be deriving from the same forest womb. They thus construe killing of wild animals to be a sin leading to public condemnation, beating and social ostracism. To them the forest itself is a benign and nurturing place. Their general understanding is that prosperity comes to those who honour Nature's way just as poverty will automatically strike those who scorn her laws.

The Van Gujjars have been essentially people of the forest for centuries. However, in more recent years city interventions like exploitative marketing forces as well as unsympathetic and many a time corrupt government departmental attitudes have brought pain and misery into their lives. For those who live in the districts of Western Uttar Pradesh, in the forests of the Shivalik range of mountains, the worst has been the threat to change their lifestyles. This was consequent to the state government's notification in 1983 of its intention to form these forests into the 820 square km. Rajaji National Park.

Seeing the exploitation and forced misery of the people, RLEK (Rural Litigation and Entitlement Kendra, a NGO working for the empowerment of the Van Gujjar and Jaunsari indigenous peoples) started its work in 1992. In three years twenty-one thousand adults became literate through an innovative adult literacy programme. They organized themselves to fight for their legal rights and entitlements. The first of a series of primary schools was begun for the formal education of their children. They were provided human and veterinary health cover through a team of qualified medical staff that includes today a support team of Van Gujjar para medics and



*Training of indigenous peoples in Uttar Pradesh, Northern India.
Photo: RLEK*

para vets. They market their milk with the infrastructural support of two refrigerated milk vans. They hold accounts in banks and have also formed themselves into Self Help Groups recognised by the Government of India. Thus, today they are on the verge of breaking the shackles that had so long viciously fettered them to debts, insecurity and an uncertain future.

The Jaunsari Indigenous Peoples

Yet another social revolution might take place in the Jaunsar hills of the same Himalayan region. Women from the indigenous *Kolta* community and similar 'weaker sections', whose men have lived as bonded labourers even as recently as 1975, will contest for 'Panchayat' (local self government) elections against the very landlords who had bonded them. In a closed society steeped in age old social mores this transition, albeit a great leap forward for the body politic of the country, will have traumatic effects on the so long self styled 'governors' of the people. Even when the writing is clear on the wall they are not willing to accept or even believe that a woman, and moreover from the 'weaker' castes of the Koltas and others, could

head institutions of local self governance with constitutional sanction in their village Panchayats.

The Koltas in the Jaunsar region of the Western Himalayas are an absolute contrast to the Van Gujjar community. This indigenous group, belonging to the lowest order of the Hindu caste system, comprised the original inhabitants of the area and its habitat's remoteness and inaccessibility had insulated them from the rest of society. With no monetary system, they survived on the system of barter.

Settlers from the upper castes and the codifying of the land tenure system by the British colonisers in 1883 brought misery into their lives. This deprived the Koltas of ownership to land and restricted them to being only agricultural labourers. They were no longer able to barter and could only meet the expenses imposed upon them through loans from their landlords. This effectively made them bonded labourers and many a time several generations had to work for free for the landlords to pay back the debt. An inhuman and insensitive government system only compounded their misery. Such economical compulsions led a majority of the bonded labourers to sell their women into the prostitution trade. RLEK's efforts in and out of courts in this region and of others in different parts of the country put a stop to this practice through the Bonded Labour Abolition Act of 1975 passed by the Government of India.

Current Intervention by Apex Court

Nearly all states have held elections to Panchayat Raj institutions consequent to the 73rd and 74th Constitution Amendment Acts. The state of Uttar Pradesh has held elections in all districts except those of the hill areas of the west. This includes the Jaunsar area. RLEK therefore took up the matter with the Supreme Court of India. It maintained that the continuation of Panchayats in these areas beyond their five year tenures was a constitutional violation and it also deprived women, scheduled castes and tribes and the 'dalits' of their constitutional right to governance as forty per cent of the seats were reserved for them at all three levels of the system. The apex court has issued show case notices to the Government at its behest. Also, vested interests had been denying the existence of scheduled castes in the Jaunsar area so that the benefit of reservation could not accrue to the Koltas and other 'low' castes. RLEK successfully intervened for them with the administrative authori-

ties so that they can now hold seats of governance after the forthcoming elections. (As per all indications today the intervention would have succeeded in compelling the Government of the State of Uttar Pradesh to hold fresh elections to Panchayat Raj institutions by the time this article is being read).

Jharkhand

The year 1995 has been another landmark for the people of Jharkhand. It has been so because of the stiff resistance to the Koel-Karo Hydroelectricity Project (KKHEP) and because of the question of Autonomy.

In May, 1995, it was reported that the central government had sanctioned 10 crore Rupees for the hitherto dormant Koel-Karo Hydro-Electricity Project in Jharkhand, Bihar. It was reported to be the outcome of a meeting between amongst others, the Chief Minister of Bihar, Mr. Laloo Prasad Yadav and the Central Energy Minister, Mr. N.K.P. Salve. It was further reported that the Prime Minister, Sri P.V. Naramimsha Rao was to lay the foundation for the project in July, 1995.

No leader from the Koel-Karo Jan Sanghatan (KKJS), the people's organisation long opposing the project, was present at this meeting; a sad example of the top-down approach to the lives and destiny of the communities.

The project involves the construction of dams across the southern Koel river at Basia, Gumla, and the northern Karo river at Lohajimi, Ranchi. It involves submergence or acquisition of about 26,000 acres of cultivable and 14,000 acres of 'barren' land and about 9,000 acres of public and government land. According to an earlier project report, 122 villages with 10,739 families in Gumla, Singhbhum and Ranchi districts would be displaced. Non-governmental sources indicate this to amount to 256 villages comprising approximately 16,300 families. According to the people, 150 sarnas (places of worship) and over 300 sasandries (places for the burial of the ancestral bones) of tremendous cultural and religious significance for the adivasis would also be submerged.

The project was mooted as early as 1954, but really stiff resistance began in 1973 when India's Planning Commission cleared the project. Even now, soon after the May meeting when newspaper reports were out, resistance against the project gradually built up in the shape of mass meetings. Between 10-30 June 1995 mass meet-

ings were held in which estimated 5,000 to 20,000 persons attended. It culminated on 5 July when the Prime Minister himself was expected to lay the foundation stone for the project.

About 15,000 to 3,0000 people gathered at Torpa and Basia to demonstrate their opposition. Unfortunately, since neither the Prime Minister nor the Chief Minister of Bihar showed up, the people were not able to express their strong resolve against the project. However, they did return home with the courage, resolve and optimism of people's solidarity.

The Autonomy Issue in the Jharkhand Area

In the month of December, 1994, the Jharkhand Area Autonomous Council Act, 1994 which is "to establish an Autonomous Council for all-round accelerated development of the Jharkhand Area" was enacted by the Legislature of the State of Bihar. Since its enactment, popular resentment and even dissent has been expressed against it because it falls short of the cherished goal of a state within the Indian Union.

The Act was largely an imposition and was only reluctantly accepted by one of the chief protagonists, Jharkhand Mukti Morcha(S). In fact soon after, Mr. Phabhakar Tirkey (JMMS) half-heartedly conceded that if nothing else "...at least the name Jharkhand has been given recognition and legitimacy". However, as recently as February 1996 the JMMS has been very annoyed and convinced that the Government has betrayed it because of the lack of co-operation and the reluctance of the Bihar Government to allow the Council to exercise power under the 42 subjects that have been conferred. It was therefore decided again to embark on a path of agitation.

What is the Jharkhand Movement?

According to one opinion, the Jharkhand Movement is a movement for a separate Multilingual and Multiethnic State (Province) in the Indian Union comprising the Chotanagpur plateau and the adjoining areas of West Bengal, Orissa and Madhya Pradesh. The most widely accepted view of its aims is that it includes Chotanagpur, Santhal Parganas, Midnapur, Bankura, Purulia, Mayurbhanj, Keonjhar, Sundargarh, Sambalpur, Raigarh and Surguja districts which are now distributed in four states (*Third World Studies* July-September 1989 New Delhi). Statehood for the entire Jharkhand Region still remains an elusive reality, and only some autonomy in

the form of the Jharkhand Area Autonomous Council (JAAC) in Bihar has been conceded. And even this was very obstructively and dilatorily implemented. An Interim Council and the Interim Executive Council was finally formed in August 1995, with Mr. Shibu Soren as chairman. The JAAC Act says: "the duration of the Interim Council and Interim Executive Council shall be for six months or till the constitution of the Council under section-3 whichever is earlier". This provision has already been violated and the tenure has been extended by another three months. Section-3 says: "The state government shall establish an Autonomous Council for the area of the Council which shall consist of not more than 162 directly elected members and not more than 18 nominated members." The Interim Council, however, is a state nominated body. In the Interim Council there are 31 Janata Dal (JD), members, which is far in excess of the representation it enjoys in the Jharkhand region in the Bihar State Assembly.

Scheduled Areas and Panchayati Raj

As early as 1874 the British had promulgated separate Acts for the government of the tribal areas in India. The Government of India Act of 1935 similarly classified these areas as 'wholly excluded' North East Tribal regions, and the rest of the tribal areas in the country were classified as 'partially excluded'. These classifications were made by the British and when they did so, they omitted contiguous areas that could have been recognized as tribal areas or scheduled areas.

The Constitution of independent India continued the practice, albeit with modifications. The wholly excluded areas were incorporated into the Sixth and the partially excluded areas in the Fifth Schedules of the Constitution. The north Eastern Tribal regions of Assam, Meghalaya, Tripura and Mijoram are governed by the Sixth Schedule provisions and the Fifth Schedule provisions cover the tribal areas of the rest of the country.

While scheduling the tribal areas in 1874 the British omitted certain tribal majority areas from scheduling. These areas remained unscheduled even after independence as the Presidential Order of Scheduled Areas issued in 1950 omitted these tracts. To rectify this anomaly the Parliament amended the Fifth Schedule of the Constitution in 1976, enabling the President of India to increase the scheduled area and the Government of India directed the State

Governments to send the proposals for scheduling the tribal majority villages/tracts but these have remained unscheduled to this day. The net result is the absence of scheduled areas in the states of Tamil Nadu, Karnataka, Kerala, Uttar Pradesh and West Bengal in spite of a large number of tribals living in compact areas.

In the states where there is a scheduled area large tracts of tribal areas remain outside the boundaries of the scheduled area. The areas in Santhal Parganas and Chotanagpur in Jharkhand which have traditionally and historically been recognised as a tribal area are for instance unscheduled. There are laws such as the Chotanagpur Tenancy Act of 1908 and the Santhal Parganas Settlement Regulations of 1872, for the benefit of tribals. The Chotanagpur and Santhal Pargana areas have been conferred with some measure of autonomy by the Jharkhand Area Autonomous Council Act 1994. Even so, significant tribal areas in the Chotanagpur and Santhal Parganas such as in Palamau and Hazaribagh districts, remain unscheduled and thereby excluded from the constitutional safeguards.

In 1992, Parliament in its Seventy Third Constitutional Amendment, made far reaching changes and provisions for local self government (Panchayati Raj) at the village level. However, Parliament excluded the scheduled areas notified as per the Fifth Schedule from the changed provisions of local self government. Panchayats are traditional village councils, and after Indian independence, they were modified with democratic and electoral mechanisms. However, the problem with Panchayat in tribal areas was that it was an imposed concept and disregarded the traditional indigenous system. Recognition of the imposed system by the government gradually weakened the indigenous systems but they did not totally die out.

Disregarding provisions for excluding scheduled areas, the Bihar Assembly extended the Bihar Panchayat Raj Act of 1993 to be applicable also to its scheduled areas. This took place in spite of the fact that, traditionally indigenous and tribal economy, policy, culture and social set-up in Jharkhand has been counterpoised and in contradiction with the caste society of Bihar. Incidentally, Mr. Laloo Prasad Yadav, the Chief Minister of Bihar has gone on record as saying that: "Jharkhand will be build over my dead body".

In response to the Act, separate written petitions were filed in the High Court of Patna, and its Ranch Bench, amongst them one

by Mr. Basudeo Besra and Jharkhandis' Organisation for Human Rights (JOHAR). The Patna High Court on 22.12.95 "...held that the Bihar Panchayat Raj Act, 1993 shall not apply to the Scheduled Areas...and we restrain the respondents from holding the elections for Panchayats in the Scheduled Areas".

In the JOHAR Writ Petition the Ranchi Bench upheld the Patna judgement. However, the Judgement does not exclude the unscheduled areas in Jharkhand from this 1993 Act. This is further absurd, when we note that the Darjeeling Gorkha Hill Council (DGHC) has been given the benefit of exclusion. The DGHC area is not a predominantly tribal area nor does it fall within the Fifth or Sixth Schedules, being rather a recent creation on the Indian political landscape after sporadic and violent agitation. And, if the DGHC can be conferred the benefit of exclusion then a rationale for including the non-scheduled areas of Jharkhand in the ambit of the 1993, Act fails to be seen.

Meanwhile, in pursuance of the Constitution's Seventy Third Amendment different footing for scheduled areas, "The Committee of Members of Parliament and Experts constituted to make recommendations in law Concerning Extension of Provisions of the Constitution (Seventy third Amendment) Act 1992 to Scheduled areas" has submitted "...that customary law, traditional practices, community ethos, etc, should prevail whatever political legal administrative structures are brought into being in Scheduled Areas and Tribal areas" and "...that in any system that is proposed the traditional systems are allowed to play their due role".

The tribals and indigenous peoples of India await and watch whether India lives up to its own Seventy Third Constitutional Amendment in the spirit of the Constitutional safeguard for tribals which it itself lays down.

Kerala

The land struggles declared on 26 January, 1994 by the Adivasi organisations under the Joint Struggle Committee formed to carry forward the struggle in Kerala to implement the Kerala Scheduled Tribes (Restriction of Transfer of Lands and Restoration of Land) Act of 1975 and the Kerala Private Forest (Vesting and Assignment) Act of 1972 made steady progress. Under the Kerala Scheduled Tribes Act, all transactions of Adivasi lands to non-Adivasis during the period 1960 to 1982 are to be nullified and lands restored

to the original owner. 8553 applications have been filed under this for restoration of land.

The Act also restricts the transfer of land from Adivasi to non-Adivasi from 1982. This Act is yet to be implemented by the government, despite a High Court order to do so. The government has declared that the Act itself is to be modified acquiescing to the pressure of the migrants. The Kerala Private Forest Act, however, stipulates that about 23,000 hectares are to be distributed amongst the landless Adivasis but this too remains unimplemented and the major portion of the identified lands are controlled by the government. The occupation of the Cheengery Project land of 528 acres (which ought to have been distributed to the Adivasis long ago) on January 26, 1995 was broken up by the government by mass arrests of Adivasis on 7 February. On 5 March, 76 families took over another piece of land at Panavalli which was controlled by the government, put up huts and began cultivating the land.

Despite the burning down of huts by the officials and subsequent arrest of more than a hundred men, women and children on 3 April, the people continue to hold on to the lands. In August, a state-wide campaign on the issue of lands and land struggles was carried out successfully. The mainstream political parties of all hues continued their opposition to the land struggles of the Adivasis threatening bloodshed. The government is toying with the idea of giving one acre of land to the Adivasis along with a sum in cash instead of implementing the Acts which are to some extent protective of the land rights of the Adivasis. While this is the situation in Wayanad district which has the largest concentration of Adivasis in Kerala, in Atttapadi of Palakkad district the revolutionary Communist Party of India (Marxist-Leninist) called 'Red Flag' has launched a land struggle attempting to take over land at Varagamadi village which the authorities themselves had decided to take from the non-Adivasis but had not yet done so. On January 10, 1996 the Police and para-military force swooped down and arrested the leaders who were addressing a public meeting at Palakkad. And two days later many who had attempted to march to the identified land were arrested by the Police who had spread over the area in large numbers to strike terror. Despite this, entry to the land was made. The Communist Party intends to intensify and spread the Adivasi land struggles in Kerala.

Tamilnadu

The state has a population of over half-a-million Scheduled Tribes constituting 1 per cent of the population. Though land alienation has been rampant like the district of Nilgiri where the tea and coffee plantations of the big companies have been spreading like a virus, there is no protective legislation as in the neighbouring state of Kerala. This can primarily be attributed to the lack of any revolutionary left movements in Adivasi areas of Tamilnadu to provide the political impulse, as there is in the state of Kerala.

In the past few years, the Adivasi villages bordering Tamilnadu and Karnataka states have been caught in the crossfire between the elusive smuggler and fugitive, Veerappan, and his gang, and the Special Task Force (STF) constituted by the police and the paramilitary forces specifically to nab them. Murder, rape and robbery of Adivasis by STF have been a common phenomenon. The STF atrocities in Chinnampathy village of Coimbatore district on June 11, 1994 with allegations of rape of Adivasi women and assault of men aroused sharp protests especially by the women's wing of the Communist Part of India. Consequently the government ordered a judicial probe headed by Judge Ms. Bhanumathy, with the victims tactically supported by the Peoples' Union For Civil Liberties of Tamilnadu, which indicted the STF of rape and assault as well as the district administration, the police and the elected people's representative to the state assembly for attempting to suppress the facts. However, the government decided on May 3, 1995 to provide compensation of Rs.100,000 to each of the two Adivasi women victims of rape and gave compensation to the injured as well. No action was taken to identify and proceed against the culprits in uniform. Even this, in a state known euphemistically as a police state, has acted as a deterrent to the STF who continue unsuccessfully their combing operations to capture Veerappan.

Adivasi rights to survival in their homelands has been systematically snuffed out in the Wild Life Sanctuaries constituted under the Wild Life Protection Act of 1972 as in Mudumalai and the Indira Gandhi Wild Life Sanctuaries in Western Ghats. With tourism projected to be the biggest industry in Tamilnadu by 2000, projects for eco-tourism development by private business and resorts have been on the rise and Adivasi lands being grabbed. The Coimbatore Zoological Park (CZP), supported by the Zoo Outreach Organisation, both NGOs, have been attempting to take over about 400

acres of Adivasi lands in Thoovaipathy in Coimbatore District bordering Kerala. Interestingly, prestigious institutions as the International Union for Conservation of Nature, WWF, International Union of Directors of Zoological Parks, the British Airways, Rotary International etc. are in some way or other linked to its promotion. Slated to be the first privately owned zoological park in the country and the best in the world, promoted by unscrupulous businessmen and industrialists, there have been demonstrations by Adivasis accusing them of atrocities, land grabbing, false cases, etc. Their activities especially in relation to land grabbing was probed by the fact finding team of the Peoples' Union for Civil Rights of Tamilnadu in August 1994 as well as by FIAN International - a human rights organisation headquartered in Germany. FIAN initiated a campaign against the CZP. The Adivasis demolished the CZP fence and retook Poramboke (government) land (which the CZP had illegally taken over from Adivasis in mid-1994) in July, 1995 thus intensifying the direct confrontation.

After the call by the National Front for Adivasi Self-Rule for civil disobedience in October 2, 1995, a state level campaign was launched in mid-November of 1995 on the issue of self-rule initiated by the Joint Council for Tribal Associations - a forum of Tamilnadu NGOs involved in tribal development. A rally of about 10,000 Adivasis from Tamilnadu was held on December 2, 1995 demanding that all Adivasi villages be scheduled under the 5th Schedule of Article 244 and the enactment of law as per the Bhuria Committee Recommendations for the 5th Schedule areas.

Karnataka

The Karnataka State Moolanivasi Budakatuu Janara Vedike (Karnatak State Indigenous Peoples' Forum) decided in October, 1995 that they would enter the reserved forests and national park areas to collect minor forest produce on November 22 in their bid to establish their self-rule. This decision was subsequent to a systematic campaign and rallies demanding self-rule. The government responded in its characteristic fashion threatening arrests to prevent those who would be collecting the minor forest produce as they do not possess the requisite legal permission. Despite the threat and massive deployment of police and forest officials, the Adivasis entered the forests in a number of places in hundreds, made their customary offering to the spirits of the forests and

symbolically collected the minor forest produce. The police forces and the forest officials did not resist this symbolic gesture of self-rule and thus avoided a direct confrontation.

NEPAL

Nepal is a multi-ethnic, multi-lingual, multi-religious and multi-cultural country. Linguistically, Nepali people are divided into four language groups: Indo-Aryans, Tibeto-Burman, Dravians and Austro-Asiatic speaking peoples. These linguistic divisions are also reflected in the social structure in that the Indo-Aryan-speakers are Jat (caste)-based (vertical status differentiation) and the Tibeto-Burmans are mostly tribal (Jati/Nationality), i.e. spatial or horizontal groupings. The conjectural history substantiated by geological and anthropological studies suggest that the Tibeto-Burman-speaking peoples were the first settlers of Nepal. The indigenous descendants of these settlers are known as *Aadibasi* / *Janajati* in Nepali. Today they comprise the *Bhote* (*Dolwa, Manage, Holonge, Topkegola, Byansi*, etc.), *Sherpa, Hyolmu* and *Thakali* (*Lhopa, Bara Conle, Marphali, Tangbe, Chimtani, Syantan, Siyar, Thintan*, etc.), in the Mountain area; *Chepang, Gurung* (*Tamu*), *Jirel, Lepcha, Limbu, Magar, Newar, Rai, Sunuwar, Tamang, Thami, Dura, Chhantyal, Pahari, Kusunda, Hayu*, in the Hill area; the *Bote* (*Majhi, Kuswar, Daral*), *Kumal, Raute, Damuwar, Raji* in the Inner-Terai (inner plains); and the *Dhimai, Gangai, Koche* (*Rajbashi, Tajpuriya*), *Meche, Kissan* and *Tharu* in the Terai (plains). Two groups; *Satar* and *Jhangad* (*Diayidian*) also live on the plains. These indigenous peoples live in different parts of the country and retain a strong sense of their distinct cultures, the most salient feature of which is a special relationship to the land. They range from hunters (nomads) and forest dwellers to urban dwellers who participate fully in the national society. Religiously, they are either Buddhists or animists.

Some of the Janajati indigenous peoples were organized long before the 1990 Peoples Movements. The representatives of these organizations together founded the Nepal Federation of Nationalities (NEFEN) in 1990 with the objective to coordinate, direct and lead the Janajati Peoples' organizations for their common cause. The objectives of NEFEN are two folds; its main objective is to empower indigenous peoples so that they lead a full life with

dignity and play a critical role in the development of the nation. The operational objectives are to raise public awareness of all international human rights, to promote human rights, minority rights and indigenous peoples' rights and to undertake activities that will ensure special protection and development for the disappearing indigenous peoples and national minorities from the state. At present NEFEN is represented by 23 indigenous peoples' organisations. They are as follows:

1. Members: Chhantyal Pariwar Sangha (Chhantyal People)
2. " Danuwar Jagaran Samiti (Danuwar People)
3. " Dhimal Bikas Kendra (Dhimal People)
4. " Dura Sewa Samal (Dura People)
5. " Jirel Samudaya Utthan Sangha (Dhimal People)
6. " Kirant Ral Yayokkha (Ral People)
7. " Kirant Yakthung Chumlung (Limbu People)
8. " Meche Samaj Sibiyari Aafat (Meche People)
9. " Nepal Bhasha Mangka Khala (Newar People)
10. " Nepal Hyolmo Samaj (Hyolmo People)
11. " Nepal Kushwar (Majhi) Sangha (Majhi People)
12. " Nepal Magar Sangha (Magar People)
13. " Nepal Tamang Ghedung (Tamang People)
14. " Niko Thami Sewa Samiti (Thami People)
15. " Rajbanshi Bhasha Prachar Samiti (Rajbanshi People)
16. " Sunuwar Sewa Samaj (Sunuwar People)
17. " Tamu Bandha Sewa Samiti (Gurung People)
18. " Thakali Sewa Samiti (Thakali people)
19. " Tharu Kalyankarini Sbjha (Tharu People)
20. " Yhambu Shyarwa Chichhog (Sherpa People)
21. " Nepal Jhangad (Urab) Kodem sudrara (Jhangad People)
22. " Nepal Chepang Chyoksna sangha (Chepang People)
23. Assoc. Members: Kirant Dharma and Sahitya Utthan Sangha

NEFEN, through its Second Congress in 1994 and National Consultation on Indigenous Peoples of Nepal held in March 1994 organised by National Committee for International Decade for the Worlds' Indigenous Peoples (formed at people level) together with Asia Indigenous Peoples Pact (AIPP), has identified two types of problems and proposed possible solutions and an action-plan: Type I to be fulfilled by NEFEN and Type II to be fulfilled by His Majesty's Government. The NEFEN proposal to be fulfilled by the Government is as follows:

1. To recognise the definition of indigenous peoples and their rights as spelled out by the National Consultation of the Indigenous Peoples of Nepal in 1994.
2. To establish 'Central Institute of Nationalities' for the development of indigenous religion, languages and cultures and 'Development Council for Nationalities' for the Socio-Economic upliftment of Nationalities to formulate plan, policy and programmes; and
3. To seek ways of power sharing with indigenous peoples by establishing self-rule and autonomy at local level and House of Nationalities (upper House of Parliament) instead of National Council of Parliament.

NEFEN had proposed that the Nepali Congress Government formed a 'National Committee for the International Year for the Worlds' Indigenous Peoples' at the Government level in 1992 in correspondance with the United Nations' call. Due to the Government's unwillingness, a National Committee for the International Year for the World Indigenous Peoples at a Peoples' level was formed. After the lapse of six months of the International Year 1993 and one week before the World Conference on Human Rights to be held in Vienna, the Nepalese Government also formed a National Committee for the Indigenous Peoples Year but did nothing except a workshop. At the beginning of the UN Decade NEFEN also proposed that the Government form a 'Decade Committee for Indigenous Peoples' and a 'National Committee for the International Year of the Worlds' Indigenous Peoples'. The Communist Party of Nepal United Marxist-Leninist (CPN-UML) Government formed a National Committee for the Indigenous Decade but it stopped functioning along with the fall of the UML Government. The present Coalition Government of three parties headed by Nepali Congress came into power in October 1995. This Government has not yet convened a single meeting of the Decade Committee. But it did appoint a Task Force in order to receive suggestions on founding an 'Academy for the Upliftment of Janagati Peoples'. The task force has already submitted its Report to the government. It is not certain that the Government will implement the report. One of the positive aspects of the report is that it has adopted the definition of Janajati Peoples (indigenous peoples) as

defined by NEFEN and the National Committee of the Indigenous Peoples of Nepal.

Amidst mass protest the present constitution has reconfirmed Nepal as a Hindu State. There are many implications of a Hindu State, for instance the Brahmin Caste (upper caste of ruling groups) students have been monopolising Sanskrit education, a source of Hindu religion, from schooling to University with free lodgings, food and stipend while indigenous peoples' children are not getting even a free compulsory basic education. Despite the existence of the free Sanskrit University for high caste Brahmins, the Nepali Congress Government introduced Sanskrit education in general High School level education as a compulsory subject and the UML Government introduced radio news in Sanskrit language. Since the first day news was broadcast in Sanskrit through Government media, NEFEN has been agitating against compulsory Sanskrit education and radio news in Sanskrit. NEFEN gave a memorandum to UML Prime Minister urging it to withdraw compulsory Sanskrit education from the curriculum and to stop Sanskrit news through Radio Nepal because:

1. No family speaks Sanskrit at home so it is a dead language
2. Sanskrit is the source and means of Hinduisation
3. Sanskrit has no connection with the languages of indigenous peoples as Sanskrit belongs to the Indo-European language family whereas indigenous peoples' languages belong to the Sino-Tibet/Tibeto-Burman family.
4. No one would be deprived of the right to information if it was not given in Sanskrit language.
5. There are still many communities who do not understand the news broadcast in Khas-Nepali (so-called national and official language) and other media used languages.

Instead of Sanskrit education and language, the indigenous peoples of Nepal want education in their mother-tongue, and radio news in their own indigenous languages. NEFEN also demanded that the Sanskrit University should be transformed into a multi-lingual university and that university should be free to every community whether they are Hindus or Buddhists or Janajatis. Due to the constant pressure from NEFEN, the UML Government had formed a Task Force to resolve the Sanskrit dispute. This task force had

prepared a report but the present Government did not accept it. The Sanskrit education and the radio news is still going on.

Likewise NEFEN had to play a defensive role while the Hindu fundamentalists called for 'Close Nepal'. NEFEN had strongly opposed the Hindu fundamentalists and had received very good support from the people. The Hindu fundamentalists failed to 'close Nepal' and were compelled to stop their movement.

Apart from seeking recognition and asserting the rights of the indigenous peoples, NEFEN is actively seeking ways and means of alternative development which could be suitable for indigenous peoples. NEFEN has worked with Cultural Survival Canada on a project called 'Alternative Economics of Indigenous Women'.

NEFEN is seeking ways to document the traditional knowledge and wisdom and the culture of indigenous peoples. NEFEN has established a relationship with the Asia Indigenous Peoples Pact (AIPP), the Indigenous Peoples' Biodiversity Network (IPBN), and Indigenous Peoples of the Tropical Rainforest.

CHITTAGONG HILL TRACTS

The February 1996 general elections did not yield definitive results. The prevailing unrest has not been conducive to peace and stability in the country as a whole, and the situation of the indigenous people of the Chittagong Hill Tracts has not improved. The Special Affairs Division of the Prime Minister's Cabinet retains overall responsibility for Hill Tracts affairs; an indication of the sensitivity of the Hill Tracts issue. The area remains closed to foreigners and prior permission from the Special Affairs Division is required to be allowed entry to the Hill Tracts at the military check posts stationed at the internal border to the Hill Tracts.

Negotiations

The negotiations of the Bangladesh Government and the Jana Samhati Samiti (JSS) have been discontinued as a result of the present political crisis. The principal demand of the JSS is for regional autonomy within the framework of the national constitution. Since the dialogue between the JSS and Government was initiated in November 1992, no substantial progress has been achieved with the exception of a cease-fire in place until 31 March. No dates have been set for the next round of talks.

An analysis of the negotiations leads one to question the sincerity of the Government's intent to agree a settlement to the conflict. There is a noticeable lack of will to place indigenous issues firmly on the national political agenda as a top priority. The National Committee on Chittagong Hill Tracts - *Parbatya Chattagram Samkranto Jatiyo Committee* with Col. Oli Ahmed the (then) Communications Minister as its president has been conducting the negotiations. This task has now been delegated to a Sub-Committee lead by Rashed Khan Menon, General Secretary of the Bangladesh Workers Party.

What is significant is that the dialogue is seen as a catalyst towards the securement of a lasting and durable peace in the Hill Tracts with full recognition of the rights of the indigenous peoples.

Influence of the Security Forces

Although Bangladesh is a democratic state, the influence of the armed forces within the Hill Tracts region is pervasive. There are civilian authorities in place, including the Deputy Commissioners and the three District Councils functional since 1989, yet to all intents and purposes the actual power is in the hands of the security forces. Their sphere of influence and involvement is not contained to counter-insurgency measures, the original reason for their presence in the Hill Tracts, but spills over into other aspects of civil society. For instance a certificate is required from the General Officer Commanding for entry into some educational institutions. The authority of the District Councils on the other hand is limited to routine administrative matters.

Although it is difficult to obtain statistical data of the exact number of security forces stationed in the area, local estimates calculate this to be on a ratio of 1:6 with one security personnel for every six civilians. To date, there has not been any noticeable reduction in the number of security forces present in the Hill Tracts. To the contrary, there are reports that the military continues to expand its operational base in the Hill Tracts and that new camps have been established in the region including at Matiranga and Dighinala.

A more significant development are well-founded reports indicating that the military has been entering into lease agreements with indigenous land owners up to the year 2000. The rent offered is well below the market price, and little or no compensation is paid

for any existing structures or crops and fruit trees. The indigenous people are not in a position to negotiate better terms and conditions or to refuse to accept the tendered rent.

Human Rights Abuses

Detailed reports of human rights abuses by security forces continue to be received. The Special Rapporteur on the Question of the Human Rights of all Persons Subjected to any Form of Detention or Imprisonment, in particular: Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Mr. Nigel S. Rodley reports "that he had continued to receive reports of torture and rape by members of the military and paramilitary forces against tribal people in the Chittagong Hill Tracts" (details in UN Document No. E/CN.4/1995/34).

One of the most disturbing developments of 1995 was the creation of an organised group of indigenous and bengali youths - *Pahari Chattrā Parishad, Pahari Gana Parishad-er Shantras Protirod Committee* - PCP-PGP-SPC (Hill Peoples Council, Hill Students Council Terrorism Resistance Committee). Known locally as the *Mukhosh Bahini* or Masked Force from the masks they wore during a procession, the thrust of their activities is to disrupt any peaceful initiatives of the indigenous peoples towards regional autonomy. And in particular the activities and events of the Hill Students Council, the Hill Peoples' Council, and the Hill Women's Federation. There are allegations that this group was established as a counter organisation to the Hill Peoples and Hill Students Councils as its name denotes.

The major operational area of the PCP-PGP-SPC is the town of Khagrachari, Khagrachari Hill District. There are reports of harassment, intimidation, assault and arson including the destruction of a local library in December 1995. On 7 March 1996, there are reports of an attack on the house of a Hill Peoples' Council leader. Further, that during the ensuing confrontation between the indigenous people who had come to help the HPC leader, and the *Mukhosh Bahini*, three people were killed, including Amar Bikash Chakma. There were demonstrations against these extra-judicial killings in Dhaka on 9 March, and in Khagrachari on 10 March 1996 in front of the Deputy Commissioner's office.

The members of this group are reported to be armed. The local authorities, including the Deputy Commissioner and the police,

indicate their inability to take effective preventive action against this group. And there are allegations that the PCP PPG SPS has the support, including financial assistance, of high level authorities. Some sources go so far as to allege the armed forces are also involved.

In addition, there are continuing reports of extrajudicial killings and forced detention by the security forces stationed in the Hill Tracts. Recent events indicate that the violence and harassment against the indigenous people, in particular the students, has escalated. On 31 March 1996, a young student named Kyajai Marma, was reportedly shot dead by the armed forces. This incident occurred during a protest march of the Hill Students Council and the Hill Peoples Council to demonstrate against the arrest without warrant on 30 March of Cha Thwai Prue Marma, a central committee member of the Hill Peoples Council.

When the indigenous people, including members of the HSC and the HPC, led a procession to mourn the death of Kyajai Marma, the police are reported to have attacked the demonstrators with batons and taken the corpse away. A large number of people (some say as many as 50) are reported to have been injured, three seriously. Two persons are reported to have been arrested including a member of the Hill Peoples Council, namely Subhashish Chakma.

Land Issues

The issue of land is crucial for all indigenous people, and the Jummas are no exception. During successive administrations a number of programmes have been implemented, without any consultation with the people concerned, with disastrous consequences on the land and resource base of the indigenous people of the Hill Tracts. The first one was the construction of the Kaptai hydro-electric dam in the 1960s. The dam submerged 40 per cent of the land base of the Hill Tracts, and displaced 100,000 people. The rehabilitation and resettlement measures were inadequate and the compensation offered, in cash and in land, grossly inappropriate.

The population transfer policy of the Government (1979-84/85) whereby some 450,000 plains people were brought into the Hill Tracts region from the plains areas also resulted in mass displacement of the indigenous people, internally and externally. The settler families were provided with lands which legally belonged to the indigenous people. This process of land loss continues today.

Another measure which further exacerbates the problem of a diminishing subsistence base for the indigenous people are the afforestation programmes of the Government. In 1992, the Ministry of Environment and Forests initiated a process of creating Reserve Forests in the Hill Tracts area (Bangladesh Gazette 21 May 1992). This will effectively place 86,000 acres in Rangamati District, 37,387 acres in Khagrachari District and 7,389 acres in Bandarban District outside the use and management of the indigenous people in addition to displacing the families living within the areas.

The practical effect of the afforestation programmes is to criminalize the traditional gathering activities of the indigenous people living within the designated areas. On 18 January 1996, the *Bhorer Kagaj* a national newspaper, reported that in a press conference in Rangamati on 13 January 1996, local headmen and villagers complained that the Forest Department officials had arrested, detained and charged a large number of indigenous persons for allegedly stealing forest produce, many of them falsely. The villagers alleged that many of the people charged were either dead or no longer resident in that area.

In implementing this measure, there were no mechanisms of consultation with the indigenous people or their headmen and traditional chiefs as required by the CHT Manual (Regulation 1 of 1900). In addition, Section 64 of the District Council Acts (19, 20 and 21 of 1989) states that the prior permission of the District Councils is required for all settlements and transfers of land. It is relevant to note that although the District Councils have been functional since 1989, the involvement of the Councils in land and related matters is non-existent. Land is not within the list of subjects transferred to the jurisdiction of the Councils up to today. Their authority is limited to routine administrative matters, such as staff reports etc., with few decision-making powers of any significance.

Representations demanding cancellation of the afforestation order were made to the relevant minister by indigenous people and their leaders including by the Chakma Chief Raja Devasish Roy, Dipankar Talukdar, the Member of Parliament from Rangamati and the villagers of Bethunia-Kashkhali. To date the Government has not taken any measures to address the concerns of the indigenous people.

The Government has not yet implemented its plans to conduct a cadastral survey of the Hill Tracts region. This decision caused great concern among the indigenous inhabitants of the area whose main cause for concern was that this would legitimise the illegal land holdings of the settlers occupying indigenous lands. However, the Government has stated its intention to initiate the cadastral survey commencing with the Bandarban Hill District.

A cadastral survey if conducted prior to resolving the question of land rights in the area, and without a political settlement of the situation as a whole would be detrimental to the interests of the indigenous people. In addition, if initiated before the refugees who are remaining in the camps in India have had the opportunity to claim their lands, this would aggravate an already complex situation further.

Refugees

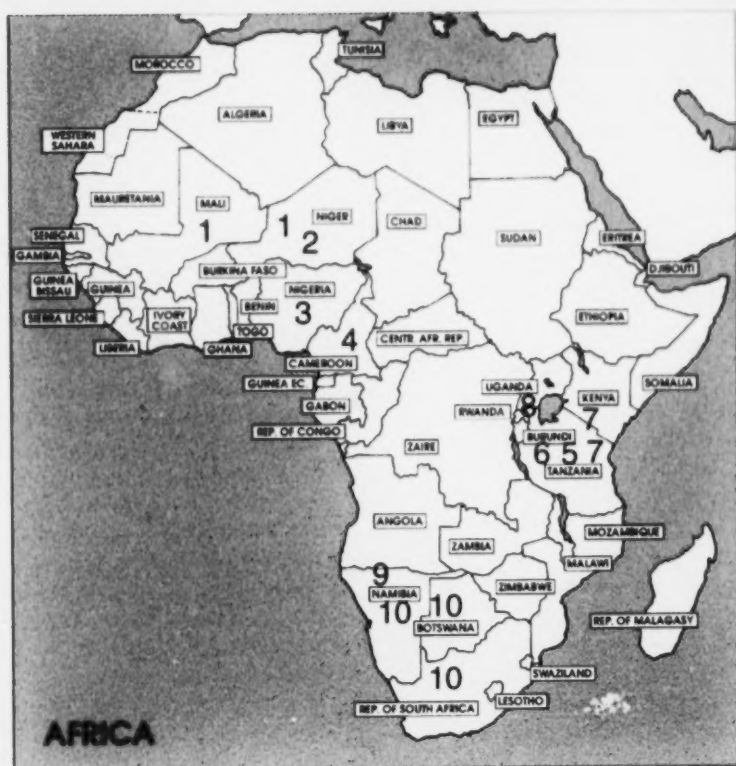
A number of efforts were undertaken by the Bangladesh and Indian governments to repatriate the over 50,000 refugees who had fled across the border to India. Attempts were made to repatriate them in 1979, 1981 and 1984 but each violent confrontation between the indigenous people and the security forces resulted in another wave of people seeking refuge in neighbouring countries. Another repatriation process was begun in 1994, and some Jumma families were persuaded to return mainly due to the severe curtailments of essential food supplies in the camps.

During 1994 (February and April) some 1027 *Jumma* families returned to the Hill Tracts on the strength of a 16 point deal agreed with the Bangladesh Government. However, the Government reneged on this agreement and substituted a weaker 19-point package. The conditions of this agreement were not met, and the refugees did not get back their lands, their jobs and other facilities as promised. Many found their lands to have been allocated to plains settlers as part of the incentives of the population transfer programme, who refused to give these lands back. However, some Jumma refugees did receive their lands back but found them to be within settler colonies and therefore difficult to occupy as a result of the ethnic tension between the settler communities and the indigenous people.

The refugees remaining in India are reluctant to return as a result of these reports. Although the conditions in these camps are

appalling, the state authorities will not allow UNHCR access to these refugees. The refugees and their leaders have been demanding international supervision of the repatriation process. It is relevant to note that Bangladesh has allowed UNHCR access to the Rohingya refugees who are in camps in parts of southern Hill Tracts.

Thus, it is apparent that the situation of the Jummas of the Hill Tracts remains grave and that both their life and their property continues to be threatened. With the increasing attention being given to indigenous rights within the framework of the Decade for Indigenous Peoples, effective measures to secure a durable and negotiated settlement to the crisis in the Hill Tracts is essential.



1. Taureg

2. Toubous

3. Ogoni

4. Mobororo

5. Barabaig

6. Hadza

7. Maasai

8. Twa

9. Himba

10. San/Kwe

AFRICA

MALI

In 1990, *Tuaregs* in Mali and Niger took up arms against the governments of both countries. Since then, peace treaties have been signed by both Tuareg rebel groups and the respective governments and have been violated by Tuareg and *Moor* groups involved in the rebellion as well as by the governments.

From a Spiral of Interethnic Violence to Qualified Optimism

Towards the end of 1994 and during the first part of 1995 the situation seemed particularly bleak in Northern Mali which had entered into a spiral of violence. Until then, the conflict in the northern regions of the country had been primarily between the Tuaregs and Moors on the one side, and the Malian government and army on the other. Killings, rapes and even massacres of Tuareg and Moor civilians spread panic and large numbers fled to Algeria, Mauritania and Burkina Faso, where many still live in refugee camps.

At the end of 1994 and the beginning of 1995 the conflict took on a more ethnic character. A movement called the *Mouvement Patriotique Ganda Koy* (the Patriotic Movement of the Masters of the Land), consisting mainly of Songhays and with close ties to the Malian army, grew in strength and importance. The Songhays are agricultural pastoralists living in the Niger valley. They have long history of complex and hostile relations with the Tuaregs. The former slaves of the Tuaregs, the Bellah, also organised themselves in a movement of some strength called the *Mouvement pour l'éveil du monde Belah* (Movement for the Awakening of the Bellah World). During the rebellion, Fulanis also organised in a movement called *Lafia*, operating in the Niger Delta, to the south of the main Tuareg/Moor and Songhay areas of influence. Several attacks and killings of civilians took place, primarily between Moors/Tuaregs and Songhays. The increasing inter-ethnic violence also had racial

undertones and was increasingly presented in the Malian media as a conflict between 'reds' or 'whites' (Tuaregs and Moors) on the one side and 'blacks' (Southern Malians, the Malian government and army, the Songhay, the Belah) on the other.

Then, during the first half of 1995, the situation changed from giving cause for alarm into being more hopeful. One of the reasons for this seems to have been grassroots initiatives from people tired of war and unrest. A Songhay elder took the initiative at a local meeting between conflicting parties and the local Songhay population agreed to accept the return of Tuaregs with their goods to the village's markets. The idea of local peace agreements spread throughout much of the northern part of Mali, and meetings re-established commercial relations between different ethnic groups. The violence and fear also diminished.

A large meeting was held in Timbuktu in July, at which leaders of different movements, Malian authorities, representatives from different countries following the conflict and NGOs were represented. The aim of the meeting was to speed up the peace process in Northern Mali. Three central concerns were: 1) the reinstallation of the Malian administration in the North, 2) the return of Tuareg and Moor refugees and 3) the reintegration of Tuareg and Moor rebels into the Malian army.

Towards the end of 1995, at least 6 local reconciliation meetings have been held in Northern Mali. All groups implicated in the conflict were represented, and the results seem promising. Moreover, the meetings have contributed to the decentralisation process taking place throughout Mali, instigated by the new democratic government.

The Refugee Problem

A generally held view in Mali is that the peace cannot be said to have returned as long as the refugees have not returned and been reintegrated. At the end of 1995, some 10,300 refugees were said to still be in Algeria, possibly as many as 70,000 in Mauritania, while in Burkina Faso the number dropped from 38,000 (in May/June) to a few thousand.

Refugees return in two ways; either trickling back in a 'spontaneous' way, or taking part in the planned return schemes of the UN High Commission for Refugees (UNHCR). At the end of 1995, only about 550 persons have taken part in the planned return



Two nomadic Tuareg boys playing on a camel. The family's tent is in the background. Photo: Gunnvor Berge

schemes, which at that time were suffering from what seems to have been the embezzlement of funds. However, as many as 2000 are said to have returned spontaneously. The homecoming of refugees creates a highly tense and unstable situation as many return to

find their homes destroyed or taken over by others, or valuable possessions appropriated by neighbours. The official policy is that the refugees should start from scratch; no one should ask for compensation for what has been lost, or reclaim possessions from others.

NIGER

1995 has been a relatively calm year in Niger. A peace treaty was signed between the rebels and the Nigerian government in Burkina Faso in April, providing for a cease fire, disarmament, the promise of more regional autonomy and development for the north of the country, and the integration of *Tuareg* rebels into the army and security forces. However, in September rebels threatened to resume the armed struggle if the government did not implement the accord. A law on decentralisation was to have been passed in July, but there has been a deadlock in the country due to conflict between the new democratically elected president and vice president (which is said to have been the main cause of the military coup d'état early in 1996).

Two central Tuareg leaders, one the renowned Mano Dayak author of two books on the Tuareg situation, died in an air crash in Niger in December, 1995. The accident is under investigation.

Towards the end of 1995, the *Toubous* took carried out two armed attacks, demanding control of their own desert state. The Toubous are another nomadic people in Niger living to the east of the Tuaregs and towards lake Chad.

NIGERIA

1995 was a dramatic year for the *Ogoni* people of South-Eastern Nigeria. Having experienced a massive clamp down from the Nigerian army in 1993-94, causing the death of some 2,000 people, the destruction of more than 20 villages and leaving at least 100,000 people homeless on their own land, the suffering of the Ogoni people was severely worsened when the Nigerian military authorities decided to execute Ogoni leader Ken Saro-Wiwa and eight other Ogoni activists by hanging on the 10th of November 1995. The nine were on trial for allegedly having instigated the murder of four

prominent Ogoni politicians less hostile to government in May 1994.

According to Nigerian law, murder cases should be tried in a civil court, but in this case a military tribunal was set up and after having kept the prisoners in custody for more than eight months the trial finally started in February. Both Nigerian and international observers stated that the trial was nothing but a 'cangoroo-court', having little less than bribed witnesses and falsified evidence to show before them. The defence lawyers withdrew from the case in July to show their dismay concerning the illigimate court proceedings and tried to appeal to the Nigerian Supreme Court to give the Ogoni activists a fair trial. Before this motion could succeed General Sani Abacha however approved of the court's decision to sentence the nine Ogoni to death by hanging. Another 19 people will face the same charges in 1996.

Although Ken Saro-Wiwa and the others were hanged as so-called murderers there is little doubt as to the political nature of the executions. Saro-Wiwa and the Ogoni organisation MOSOP (Movement for the Survival of the Ogoni People) has fought a non-violent battle against the multi-national oil giant Shell and the Nigerian authorities since 1990, seeking compensation for the environmental destruction of their area and acknowledgement of their political rights as a minority. Some 30 billion dollars of crude oil has been extracted from the area since 1958 and continous gas-flares and regular blow outs have made life more or less unbearable in several parts of Ogoni land. In addition to this the people living on the land have virtually never received a single dollar neither from Shell nor from Nigerian authorities. These are, however, dangerous claims for the Nigerian government to acknowledge.

The oil-industry makes up 90 per cent of Nigeria's export income and the Nigerian economy is heavily dependent upon oil. Only in Rivers State (where the small Ogoni population of some 500,000 people is situated) there are some 20 ethnic minorities facing the same environmental degradation as the Ogonis and who would have just cause to claim the same rights as the Ogonis should their struggle succeed. The Ogoni people's quest for local self-determination, envisioned by Ken Saro-Wiwa as a separate state under the umbrella of the Nigerian federation, was not an easy pill for Nigerian authorities to swallow. The Nigerian military rulers are not yet ready to face the growing unrest among the many Nigerian

ethnic minorities (Nigeria is made up of some 200 ethnic groups and the actual federal model is promoting the three largest, the Yoruba, Hausa-Fulani and the Igbo).

CAMEROON

In October 1995 four leaders of the *Mbororo* cultural association Mboscuda were held in custody on political charges of defamation against a wealthy landowner in the North West Province of Cameroon. The four were temporarily released in November awaiting a possible trial in the beginning of 1996.

The landowner who raised charges against the Mboscuda leaders has for many years exploited the Mbororo population in the region both economically and politically. He is an influential individual in a politically turbulent region and is representing the political party in power.

The matter is one of great complexity and reflects both the human rights situation in Cameroon in general, the specific political situation in the English speaking regions of Cameroon (only two provinces are English speaking - the rest is Francophone) and the challenges the Mbororo cattle nomads are facing in their struggle to adjust to the modern Cameroonian state.

The Mbororo association Mboscuda was created in 1992 to help the Mbororos find viable answers to their marginalised position in the Cameroonian society. This includes ways of coping with the farmer/grazier conflicts that are becoming more and more frequent due to the population growth and the growing demand for land resources, but also ways of integrating Mbororos into the social and political life of the Cameroonian state - in terms of education, work possibilities and the creation of a forum that can speak on behalf of the dispersed Mbororo nomadic and semi-nomadic population.

Even if Mboscuda was formed as a *cultural association* and had no ambitions of becoming anything else, the matters of cultural importance to the Mbororos can easily be conceived of as political by their surroundings because they touch upon sensitive issues in the region. When the Mbororo start claiming their rights to grazing lands and water holes they become a threat to their sedentarised neighbours and even more so these days because the Mbororos themselves have also begun to settle. When the Mbororos are no longer willing to pose as supporters of the political party in power

they become a threat to the political position of the rich landowner who raised charges against the Mboscuda leaders. It does not help the Mboscuda leaders that they are living in a region perceived of as one of the most unstable political zones of Cameroon; the province's capital Bamenda is the stronghold of one of the most important political opposition leaders and also of the Anglophone separatist movement. If the authorities manage to link Mboscuda to either of the two (especially the non-authorised separatists) it could mean serious trouble for the organisation and their leaders.

TANZANIA

With the recent democratisation of politics in Tanzania, people's relations with government have changed. This is reflected in a growing number of private cases being successfully brought against the government for infringement of customary rights to land. To deal with this challenge to its authority, the government at first issued a number of Government Notices extinguishing customary rights to land in those areas where they were being contested. When these were declared illegal in the courts, the government then tried to legislate the problem away with the Regulation of Land Tenure (Establishment of Villages) Act of 1992. This in turn was declared unconstitutional in the case *Hon. Attorney General v. Akonaay & Lohay* (Civil Appeal No.31 of 1994).

The failure of government to assert its will in contravention of customary rights prompted a Presidential Commission of Inquiry into Land Matters that was followed by a review of land policy by the Ministry of Lands, Housing and Urban Development.

Land tenure insecurity remains a problem for minority peoples in Tanzania despite the proposed new national land policy. Calls for greater public control over land and more openness in its administration by government made by the Presidential Commission of Inquiry into Land Matters and endorsed by a national land policy workshop, have not been fully realised in the proposed National Land Policy of June 1995.

The policy does, however, propose to register customary titles, although this is to be entrusted to Village Councils and not Village Assemblies as recommended by the Commission. This is of particular concern to people who live in areas where village leaders do not represent their interests as is the case in many pastoral areas. An

intolerance of minority people is also reflected in proposed bans on shifting cultivation and nomadism.

Such proposals have fuelled a public debate that is covered by an expanding free press and it has also been stimulated by publication of a Kiswahili summary of the Commission's report. A pastoralist pressure group called the Pastoral Caucus has succeeded in gaining greater protection from alienation of their lands through the gazetting of pastoralist areas. However, the new policy has yet to be ratified by parliament, and land rights remain the major concern of indigenous minorities who continue to suffer from land alienation. Many such land cases are also associated with violations of human rights, including: harassment, beatings, impounding of livestock, summary exaction of fines for 'trespass', arbitrary arrest, and detainment without cause.

The long-standing dispute between *Barabaig* pastoralists and the government over the allocation of prime grazing land for a parastatal wheat scheme has not yet been resolved by the courts. The first of two cases has, however, been successfully concluded in the High Court (*Yoke Gwako & 5 Others v. NAFCO & Gawal Farm* - Civil Case No.52 of 1988). The judge ruled that the *Barabaig* were illegally dispossessed of their customary title by the government's agent, NAFCO. However, it was a hollow victory as the judge confined his judgement to only six out of 788 Plaintiffs on a procedural point, and then awarded them only paltry compensation. The case has gone to appeal on the grounds that the judge erred in not revoking the acquired title and granting the land back to the *Barabaig*.

Maasai leaders are also concerned about land grabbing by politicians and private entrepreneurs including foreign corporations who are leading what has been described in the national press as a 'scramble for Maasailand'. This has been stimulated by the liberalisation of the economy which has encouraged wealthy and politically powerful interests to acquire land by any means for commercial purposes. In Nabarera village in Simanjiro district alone, 40,000 acres of pasture land have been allocated to village leaders, senior civil servants and their relatives. MPs from Simanjiro and Kiteto districts each received plots in excess of 2,000 acres, as did the Lutheran Church.

Pastoralists have also been excluded from wildlife protection areas. For example, the eviction of *Maasai* and *Iparakuyu* residents from Mkomazi Game Reserve has provoked concerted resistance

and also caused them to take their case to court (*Kopera Keiya Kamunyu & 44 Others v. Minister for Tourism, Natural Resources, Director of Wildlife, Project Manager of Mkomazi Game Reserve - Civil Case No.33 of 1995*).

Indigenous residents of the Ngorongoro Conservation Area are complaining that the proposed new General Management Plan was drawn up without their full participation and therefore fails to take sufficient account of their needs. They are particularly concerned about a refusal to affirm their rights to land and plans to reimpose the ban on cultivation despite the fact that it is necessary for their survival and has made no major adverse impact on wildlife conservation.

In response to persecution and the alienation of their lands, minority groups have formed NGOs to defend their rights, better represent their interests and attract support for community development. There are now well over ten such organisations, and more are being registered all the time. Most have been formed by pastoral groups, although a group of *Hadza* hunter-gathers who live east of Lake Eyasi just south of Ngorongoro are represented by the organisation Mongo-wa-Mono.

Maasai and Barabaig pastoralists have formed PINGOs, a forum of pastoralist NGOs, with the aim of building solidarity among pastoral organisations, strengthening capacity in community development and acting as a civil pressure group on issues such as land alienation. PINGOs regards democracy and respect for human rights as necessary components of development, and has set an agenda for action that includes inter alia participation in the UN International Decade of the World's Indigenous Peoples, training on working with conflict, research, public awareness raising, human rights campaigning, provision of formal education, voter education, women and youth development.

Tanzania conducted its first multi-party elections in October 1995. Despite widespread opposition to the long time ruling party, Chama Cha Mapinduzi (CCM), it won an overall majority. Although it is widely acknowledged that the poll was neither entirely free nor fair, most observers believe the results broadly reflect the will of the people. Consistent with much of rural Tanzania, the CCM won a majority of seats in pastoral areas due to people voting for individuals rather than parties.

The new CCM government does not represent a major change from the past, but it does herald a fresh approach. One of new

President Mkapa's actions on taking office was to declare war on corruption that includes a crack down on bribery in the courts. He has also appointed 18 new faces to the Cabinet who tend to be younger and more professionally qualified than in the past. The Prime Minister, Frederick Sumaye, is also MP for Hanang and this may result in conditions improving for the Barabaig in that district. Progress with the new Land Policy may be positively affected by the appointment of a new Minister for Lands, Gideon Cheyo, who is a respected senior civil servant.

KENYA

Kenya has long been the focus of international criticism for its poor human rights record and lack of good government. Many of its excesses have until recently been overlooked by donors because of the country's strategic commercial and political ties in the West. Of particular concern is the political manipulation of the judiciary to serve the interests of government, and the victimisation of individuals and groups who expose corruption or oppose government. It has also been implicated in the enforced evictions of Rift valley residents, and the harassment of ethnic Somali refugees.

Like Tanzania, Kenya has also bowed to international pressure for political pluralism. In both countries the ruling parties have been re-elected, largely due to the failure of opposition parties to unite against them. Unfortunately, the government in Kenya has interpreted its reaffirmed mandate to suppress opposition through harassment and detention of opponents. Recent reports suggest that physical abuse and withholding of medical attention from detainees is a regular feature of political detention.

Kenya is bisected by the Rift Valley which is mainly occupied by pastoralist groups with the *Maasai* occupying the southern plains that straddle the border with Tanzania. Land tenure insecurity for pastoralists in Kenya stems from policies for the privatisation of property in a free market economy. This is compounded by a land market based on the principle of 'willing buyer willing seller'. The sub-division of communal pastoral lands has enabled prime land to be acquired by wealthy and politically well connected people to the detriment of indigenous residents.

The sub-division of Illoodoariak Trust Land (146,000 hectares of Maasai pastures at the foot of the Ngong hills about 80 kilometres

southwest of Nairobi in Rift Valley Province), for example, resulted in 362 non-residents acquiring title to 20,000 hectares to the exclusion of 1,200 residents. Beneficiaries included local officials and members of the business and political elite and their families, such as the wife of a government Minister.

In another ongoing case a group of *Loita Maasai* are in conflict with Narok County Council over the status of the sacred Loita forest (Naimina Enkiyio) in the southwest west of the country. The Council supported by the local MP and Minister for Local Government wishes to open it up for tourist development. The group have formed the Loita Naimina Enkiyio Conservation Trust to preserve the natural integrity of the forest by securing legal guardianship. It remains to be seen whether the issue can be resolved without any imposition by government.

Successful resolution of these cases and future prospects for indigenous peoples in Kenya very much depends on whether the KANU government can be forced into respecting the rule of law and tolerating informed opposition. Pastoralists are fortunate in being favoured by the President's allegiance to Rift Valley residents. However, corruption in high places can still thwart the rights of vulnerable groups. For example, direct appeals to the President by the Illoodoariak Community resulted in the Attorney General requesting that legislation be drawn up to resolve the land dispute without resort to the courts. Immediately thereafter a senior Minister implicated in the affair instructed a private lawyer to prepare counter legislation that would enable the government to show willing, but actually do nothing for the people of Illoodoariak. It remains to be seen which legislation will prevail.

RWANDA

"I am a widow...we decided to escape when we first heard the loud noises of guns. Ruhengiri was the place we ran to. The problems started when we came back from exile. Many of our people were thrown into prison by people saying we were interahamwe... we would like them back because the Twa people are very few, and therefore we need them back. Our pottery does not earn us enough money to survive... A long time ago our grandfathers used to hunt and brought us back some meat. The Twa were getting help from

the kings, like Rudahigwa. But this has changed now... our living conditions are very poor. Maybe this is happening to us because we are Twa."

This testimony was collected from an elderly *Twa* woman in Tambwe, Rwanda, June 1995, recounting her experiences of the war. Between April and July 1994 as many as 1 million Rwandan men, women and children were brutally murdered. These were mostly Tutsis. This comprises some 14% of the population and the death toll continues to mount as the country waits in desperation for the international world to aid them in their quest for justice.

In reports of the bloodshed, the international media have neglected mentioning the Twa, the third lowest class, caste or echelon of Rwandan society. This omission can be broadly attributed to the Twa's status in Rwandan society: that of a minority both numerically and politically. More specifically, the Twa have tended to be perceived as external to a political discourse in Rwanda which focused its attention on a conflict between two factions: the 'Hutu' and 'Tutsi'. This was mirrored by the international media. As an increasing amount of information has been gathered, it has become increasingly apparent that the Twa have been directly affected by the war and in some cases actually targeted as a community.

The Twa are one of the 'Pygmy' peoples of Central Africa and are recognised as the autochthonous population of the area of forest now called Rwanda. They are Banyarwandans, sharing the common language, religion and culture of the Rwandese people as a whole. However, their relationship with other colonising groups: the Hutu, Tutsi and Europeans has been one of ever greater loss of their natural habitat and integrity of their traditional mode of hunter-gathering subsistence.

Up until recently some Twa still lived by hunting and gathering in the few remaining forests of Rwanda. But apparently without exception all have now been forced into settlements without being offered adequate alternatives or compensation for the loss of their livelihood. Most of the major expulsions of Twa occurred in the last 35 years as a result of ill-informed and short-sighted western conservationists. In 1993, the World Rainforest Movement (WRM) witnessed the last of these hunting communities living in Nyungwe forest. The use of the forest as a military training ground during the recent war however, marked the final eviction and loss of this traditional way of life.

Fieldwork carried out in 1993, by WRM and the APB (Association Pour La Promotion Batwa) confirmed the dire and marginal situation of the Twa. The successive governments that have existed throughout Rwanda's recent history have neither provided the Twa with any security over land that they may have been allocated. Land theft or forced eviction are still common place occurrences. This has led to the Twa increasingly entering into dependency relations with their neighbours which are too often characterised by abuse. Other sources of income such as pottery, do not provide a reliable alternative livelihood. Too often the Twa are forced to beg or else exist on edge of starvation.

The Twa are an extreme case of former hunter-gatherers who have been subject to severe discrimination. The basis for this discrimination is rooted in history and is manifested both at an economic and cultural level. Access to vital resources is restricted and the Twa are victims of social segregation and a racial stereotyping that labels them as inferior or subhuman. Years of institutionalised discrimination have given the Twa an inferiority complex and a sense of despondency.

Despite this, the Twa are unique in the way that they set up the first legally incorporated 'pygmy' organisation established and run by Pygmies, in Central Africa.

Prior to 1991, there had never been an association for the Twa run by the Twa themselves. There had been a number of associations formed to help the Twa but they were always dominated by non-Twa, with very variable commitments to support the Twa. After the RPF (Rwandese Patriotic Front) invasion of Rwanda in 1990 and the political liberalisation forced upon Habyarimana's regime by the Arusha Accords, a number of educated Twa got together and created the Association Pour La Promotion Batwa (APB). The Twa had no effective means of presenting their very real grievance at a regional and national level and the media and national agencies tended to ignore their plight. The APB's aims were to network with Twa in all parts of Rwanda and survey the socio-economic situation of their people. The APB would thus create a forum and information base enabling them to draw attention to the appalling situation and lack of representation of the Twa and to press for Twa rights. With limited resources, they set up a number of projects to raise awareness of Twa needs and provide practical assistance to the Twa. Furthermore, regional and interna-

tional contacts were established and representatives travelled abroad to attend conferences.

In 1993, WRM, at the invitation of the APB, sent representatives to Rwanda to help them develop their capacity as a truly representational grass roots organisation. A team of Twa, trained in field-work methods, travelled around Rwanda with the WRM, undertaking a socio-economic survey, while making contact with local representatives.

These efforts were halted by the genocidal conflict of 1994. The existing Twa organisations were disrupted by the dispersal and death of their members. Communications with the outside world ceased, until news of a few survivors filtered its way through to organisations such as WRM and UNPO. With the assistance of UNPO, Charles Uwiragiye of the APB was able to conduct a preliminary study of the situation of the Twa in the remaining villages in the immediate post war period in the camps outside Rwanda. Health Unlimited also carried out a survey in December 1994, in order to assess the immediate needs of the Rwandese and to see whether a specific project could be focused on the Twa. Meanwhile, WRM made preparations for a follow up project, the aim of which would be to visit the same villages in 1993 in order to gain primary data of the Twa's experiences in the war and to rebuild the Twa's representative organisation. The survey took place in May-June 1995.

The Effect of the War on the Twa of Rwanda

With the signing of the Arusha Accords in 1990 and the acceptance of a multi-party democratic state, the president's party and its accomplice CDR, in the face of new competition began a sustained effort to gain popular support and hence votes. Offering material incentives and political protection, party members encouraged others to join. Large and influential communities were targeted all over the country including some Twa ones.

Several Twa from the communities visited, such as Rutonde, talked of experiencing severe intimidation to join the MRND (National Republican Movement for Democracy and Development), and upon refusal receiving death threats. Two large communities were visited and persuaded to join the MRND: Shyongi, where UNPO reports a Twa was beaten to death for wearing the wrong hat; and Masango, where the Twa were bribed to join the inter-

ahamwe (youth militia). The latter was a community, founded in 1993, to experience shocking levels of violence and imprisonment from the local government. Most of the Twa knew very little about politics and current affairs in the country and were easy to manipulate due to poverty and discrimination.

During periods of increasing tension such as the Burundian Coup when numerous Hutu were displaced and sought refuge in Rwanda's border areas, Twa communities such as at Ntili, were the least able to defend themselves and therefore the first to be attacked. The Twa community was attacked in the market place with crow bars, their pots smashed and when they returned home their village had been burnt down.

Throughout the war the instigators of the genocide manipulated the media through the use of propaganda. In this, the Twa were not spared. Accused, as siding with the invading race of Tutsi's, other Rwandese were encouraged to take the law into their own hands and punish the Twa. Broadcast on Radio Mille Collines October 1995 messages such as this, led to a wave of attacks targeted at Twa communities.

BOTSWANA

In the huge Kalahari desert in Botswana you are faced with the horrific sight of game animals dying at the high cordon fences which are set up in the interest of the cattle industry in Botswana to avoid the spread of foot and mouth disease among the cattle. Enormous fences run both north-south and east-west in the Kalahari and efficiently prevent the game animals from following their trekking routes. The wildebeest, hartebeest and eland are all dying of thirst, displaced from their traditional territories and direct routes to water by the cordon fences. Government officials boast that after the Great Wall of China the Botswana fences are the most visible man-made objects from space. "I cried great tears when I saw the deaths along the Kuke veterinary fence, giraffe, wildebeest, hartebeest in their tens of thousands", said Roy Sesana from the Central Kalahari Game Reserve, expressing the feelings of the indigenous Kwe peoples of the Kalahari.

The nomadic Kwe of the Kalahari Desert know the catastrophe instinctively. They are the original peoples of the Kalahari. This killing of game animals in the Kalahari reflects very clearly the

need for the indigenous peoples to be involved in finding solutions to environmental problems. Living in a balance and harmony in the desert environment for more than 40,000 years has demonstrated the Kwe peoples' invaluable expertise in conservation, as well as their extensive and profound knowledge of natural resource management. The Botswana Government has chosen to ignore this and in the 30 years since independence has been responsible for the decline of up to 98 per cent of the game population in the Desert Basin of the Kalahari.

The Central Kalahari Game Reserve

Today the tourist industry has brought a high market value to the Kwe's last remaining ancestral lands, the Central Kalahari Game Reserve (CKGR) which is home to the *G/wikwe* and *G//anakwe*. What was once deemed an uninhabitable and undesirable desert by the Botswana Government has now become prime real estate for economic exploitation. The survival and human rights of the Kwe are to be sold to the highest bidder. To date, the Kwe have suffered gross violations of human rights under Botswana's policies of dispossession and relocation of the traditional communities.

Under the Government's edict, euphemistically described as 'cutting off services', Kwe women, children and families face thirst and starvation. Basic services such as the provision of water are being denied to the Kwe, and their indigenous rights to collect traditional foods from the veldt, to collect firewood, to hunt and to have access to potable water are being violated. Their subsistence hunting rights have been subject to falsified accusations and charges of poaching leading to an increase in documented cases of beating, torture and arbitrary detainment as Kwe men are arrested for 'poaching' game animals for food. As expressed by Aron Johannes, representative from the indigenous organisation, First Peoples of Kalahari: "Nowadays when those Kwe who try to hunt along their traditional land they run into the hated fences or worse yet game wardens who arrest and torture them as poachers". The Kwe notice every year, as more people from outside arrive to crowd them away from the Central Kalahari Game Reserve, that more of the syndicated boreholes that must provide water for more cattle are running dry, that more wild game herds are thinning out and that more veldt is reverting to desert. For a hunting and foraging peoples, every diminution of the biodiversity means a 'little death' -

every extinction means emptiness in their being and in their bellies.

The Central Kalahari Game Reserve covers around 52,000 square kilometres. In 1986 the government decided to evict the Kwe from the Game Reserve, however, due to massive protests this was prevented. From 1992 threats of forcible removal began again. Here in 1996 the situation of the Kwe in the Game Reserve is still very difficult, and living conditions are bad. There has also been renewed fear among the Kwe that they might be forcefully removed.

Control of ancestral land is the most important issue which the Kwe face today. Political will and imagination on the part of governments to see the challenges posed by indigenous peoples as opportunities rather than constraints is essential. The old approach favouring integration into one mainstream culture is not acceptable from a Kwe point of view. The human, social and economic costs of integration can no longer be denied or ignored.

Indigenous Organisation

Facing the very threat of extinction, the grassroots Kwe leadership of Botswana came together in 1992 to assume a political voice for the control of their culture and development. The organization they created is called Kgeikani Kweni, or First Peoples of Kalahari. In October 1993, First Peoples of Kalahari (FPK) became legally registered as a non-governmental organization. The members of the board are elected from *Nharo, Tsaókwé, G//ankwe, G//wikwe and #Au//ae*.

Their mission is to ensure the survival of the Kwe people by assisting Kwe communities in gaining control over their cultural, social and economic destiny. The purpose of FPK is to advocate the indigenous people's rights guaranteed to Kwe people according to international law; to develop the leadership of Kwe men and women; and to provide culturally appropriate development. In brief, the goals are:

- To be recognized as a distinct peoples and secure ownership of the remaining Kwe ancestral territories.
- To be a people capable of creating our own sustainable development plans.
- To establish a centre that can:
 - communicate, exchange, and distribute information among

our different peoples as well as with other First Nations peoples around the world;

- coordinate, report and record the information on specific local conditions of the N/oakwe scattered all over 'Gomkgei' - the Sand Face - and link them together;
- coordinate the mapping of the territorial distribution of *tsogores* (sip-wells), as they are the centres of our ancient lands.
- To create a National Council for the N/oakwe through duly elected representatives who work for the recognition of land and human rights for our peoples, and to achieve self-determination through the National Council.

FPK presently works actively on the situation in the the Central Kalahari Game Reserve.

The modern colonizing state and the vigorous cash economy is a serious threat to the Kwe. With the discovery of diamonds and with the advent of favoured access to the European Community's beef markets, development in Botswana has never looked back. Cattle have assumed an economic importance more exalted than any part of the natural ecosystem. Cattle barons, diamond mining interests and elements of the middle class and the political elite form powerful vested interests in favour of a growth-development which does not respect nature and the indigenous inhabitants. The government has learned to market its environment record in glowing terms, discrediting its critics, and blaming animal mortality (such as 50,000 wildebeests at Lake Xan starved to death) as a natural phenomenon of recurrent prolonged draughts which the animals are adapted to deal with.

Just as USA and Canadian officials have been known to blame dwindling salmon runs on the miniscale catch native subsistence fishing, their counterparts in Botswana have been known to suggest that the bows and arrows of the Kwe make a serious dent in the eland populations. The country's best known NGO on the conservationist front, the Kalahari Conservation Society, has been co-opted, and even the international environmental movement, a force to be reckoned with in African affairs, has been of more help to the government's wildlife tourism initiative than to the Kwe whose culture is based on living amongst animals rather than segregating them into game reserves.

But whereas the wildlife of Botswana are allowed limited freedom in the interest of tourism revenue, the government insists that the Kwe must be herded into settlements where they can 'develop' (an euphemism, as elsewhere in the colonizing world, for deculturation, alcoholism, idleness, economic and sexual exploitation).

The marginalization of the First Peoples in Botswana is reflected in many ways, but perhaps most obviously in the steady parade of names mistakenly applied to them: Bushmen (apartheid terminology, from the Dutch *Bosjemannitjies* for orangutan), Basarwa (their stereotype within the dominant Tswana Society, deriding a lack of land and cattle and summed up in the saying "you Basarwa, you are worthless"), San (an anthropological designation that has gained currency despite its non-acknowledgement by the Kwe), and most recently Remote Area Dwellers (a bureaucratic term which translates into the various Kwe languages as "those who are deep within the deep" suggesting death and burial to some Kwe, "as if their soil covers ours"). N/oakwe is better but not easy to pronounce without being heard, meaning Red People. Kwe is being accepted. The government does not officially recognise the Kwe among the Botswana tribes by any name, it should be noted. But for the Kwe and for the rest of human-kind, survival depends on understanding the Kwe message. Planet earth is home to almost 6 billion human beings, the most voracious consumers of resources known. The Kwe are no better prepared than any other group to understand the full impact of those billions and their technologies on the natural environment. But they know that every year the environment that sustained them for centuries has fewer resources to share with them. They feel it in their stomachs, and in their full beings when they pause in the pathetic settlements to wonder 'if god has made a mistake'.

"Ten thousand of our people have been displaced with no alternatives. How can we live? We ask all governments, is this a life for our people?"

NAMIBIA

Bushmen (San, Ju'hoansi)

In the past two years much has changed for the *Ju'hoansi* of Eastern Otjuzundjupa, Namibia. While at the same time much remains unchanged. Through the establishment of a new management struc-

ture, the Ju'hoansi of Nyae Nyae are now full partners in the development process and have become increasingly well equipped to respond to the challenges of development whilst maintaining cultural integrity. After the challenges posed in September 1994 regarding their relationship with the Nyae Nyae Development Foundation a new relationship has emerged. One which recognises and respects the rights of the Ju'hoansi to drive the development process.

In line with this new relationship has come a greater understanding of and control over the Natural Resource Management (LIFE) project, control which will be boosted by the imminent introduction of conservancy legislation by the Namibian Government. The conservancy legislation will enable many communal groups to reap the benefits of their wildlife and veld foods as well as enabling the community to control and direct tourism in their 'conservancy area', an option for development in which the Ju'hoansi are leading the way in Namibia.

These changes are providing tremendous benefits for the Ju'Hoansi of Eastern Otjuzundjupa. But, while they are gaining a foothold in mainstream Namibian society, they are continuing to confront many of their traditional problems, including constant attempts by Herero pastoralists to bring cattle into the Nyae Nyae area. Likewise, many agencies both within government and the private sector fail to acknowledge the Nyae Nyae Farmers co-operative as the traditional authority in Nyae Nyae. This failure to respect Ju'Hoansi rights is a drain on the energy of the organization and impinges on their capacity to continue to drive the development process.

The West Bushmanland communities are also undergoing rapid changes with the imminent departure of ELCIN as the implementing agency for the resettlement program of dispossessed Bushman. The Ministry of Lands and Resettlement is to take over the program and manage it directly. With pressure from Herero pastoralists, who are also being resettled from Botswana, competition for limited land will surely become an issue. Whether the West Bushmanland communities are strong enough to hold on to their land is yet to be seen.

The issues facing the West Bushmanland communities are also a constant threat to the security of the San communities of West Caprivi as they are also facing land encroachment from other indigenous peoples of the region. In particular they are being challenged by Mbukushu people who see the Bushmen communities as easily intimidated and forced off their land.

In other areas of Namibia the San peoples continue to experience the worst of living conditions. On all social indicators the San are rated in the lowest categories and continue to suffer discrimination from all other groups in Namibia. The San, through lack of land, poor educational outcomes and general acts of discrimination are far short of being truly equal partners in the Namibian nation.

Efforts to address the general plight of Bushmen in Namibia are fragmented and poorly co-ordinated. Many agencies are acting in isolation from each other and thus duplication of services and support are endemic. In response to this situation and the diminishing need to provide support to the Ju'Hoansi of Eastern Otjuzundjupa, the Nyae Nyae Development Foundation of Namibia (the oldest NGO supporting Bushmen rights), is re-assessing its role and accepts that it must take on the broader responsibilities for supporting Bushmen development throughout Namibia.

The ovaHimbas

After Namibia got its independence in 1990, SWAWEK (South West Africa Water and Electricity Corporation) took a new interest in the old plans for a Kunene River hydroelectricity project as a solution to Namibia's future energy needs and independence from importing energy from South Africa. A Scandinavian consortium was given the contract to conduct the pre-feasibility and the feasibility report on the project. The proposed Epupa dam will flood an area of 250-350 km² which is at present an essential part of the pastures and water resources of the approximately 5000 *ovaHimbas* who live in this area.

The ovaHimbas are semi-nomadic pastorals who have lived in the northern part of the Kunene region, Northwest Namibia, since the great Bantu migrations of the 16th and 17th centuries. This region is often called the 'Africa's last wilderness' which reflects the remoteness of the region and the traditional way of life of the ovaHimba nomads. The ovaHimbas were isolated during the South African occupation but had their self-determination and kept their traditional culture alive. During the war of independence they supported South Africa and some of them still want South Africa back in Namibia. This attitude has to be understood in the context of the self-determination they had and the economic support they received from the South African army during the war. Since independence the ovaHimbas have lost some of their self-determination and some of the economic support they received from the

South African army. The Himbas say that the Ovambos have never had anything to say in Kunene region and there are no reasons why they should start now. On this background the conflict over the proposed hydroelectric dam project has developed.

The Namibian government sees the Epupa dam as a solution to Namibia's future energy needs. The project is the biggest industrial project in Namibia since independence and the government stands to gain a lot of prestige from it. Namibia needs to solve the energy situation as the Ruacana power station which, provides most electricity today, has a low storage capacity and can only run on full capacity during the rainy season. The other energy source, the van Eck coal-based plant, is extremely expensive due to the high cost of importing coal from South Africa. In the dry season Namibia has no other choice than to import 50 per cent of its energy from South Africa at increasing prices. The opposition to the dam does not question the need for a new energy supply, but rather questions the economic viability of the Epupa project and its environmental and socio-economic consequences.

The major criticisms are based on:

- 1) The prognoses of future energy needs in Namibia while the mining industry, which is the greatest energy consumer, is in decline.
- 2) The need to export energy from Epupa to South Africa to make the project economically viable, when prognoses from South Africa indicates that it does not need to import energy.
- 3) Epupa will only be productive for 20-30 years due to sedimentation.
- 4) The environmental impact on a unique environment in a semi-desert region.
- 5) The need for further investigation into alternative energy sources in Namibia.
- 6) The impact on the Himba people and their rights enshrined in the Namibian constitution as well as international rights as minorities stated by the UN and ILO.

Initially, the government was not eager to give the Himba people information, but during 1994-95 this situation improved and there were public meetings in Windhoek and Kunene region. OvaHimba



Himba headman, Namibia. Photo: Thomas Tvedt

leaders attended the Kunene region meeting but, because of long-running conflict among the Himbas, some of the Himba leaders spoke in favour of the dam together with the business community which sees the Epupa project as an opportunity for development in the region. The Himbas who live along the Kunene river are therefore alone in resisting the Epupa project. There are virtually no organisations that support their view or speak out for their cause. As an old Himba said, "before we fought with spears and weapons, today this fight for survival is done with paper and pen. We Himbas have no education and knowledge of this way of fighting, therefore we have already lost the fight".

The next step is the final feasibility report on which the government will base its decision as to whether to go ahead with the construction. Hopefully, this report will be finished by the end of 1996 but it is up to the government to investigate other energy sources and take the environmental and socio-economic impacts on the Himba people into consideration.

One of the main problems is the government's reluctance to acknowledge the Himba people as an ethnic/minority group because this means that the Himbas could use international conventions to support their fight for their land rights. The government argues that an acknowledgement of the Himbas as an ethnic group with special rights is a prolongation of South African apartheid politics. However, the reality is rather that the ovaHimbas are a minority group that has to be taken into consideration if this unique people are going to survive in a modern Namibian society and not end in destitution with no means or opportunity for survival at the bottom of the social ladder.

SOUTH AFRICA

The issue of indigenous groups or forgotten peoples searching for their roots is very important at present in South Africa. This results from the new Constitution which provides for the right to participate in one's own culture. Another reason is the right to have traditional leaders as a measure to safeguard cultures. These leaders will have an input at the national, provincial and local level.

Indigenous groups in South Africa can also be perceived as people whose cultures have become or are becoming marginalised. At present the *Griqua* people claim recognition of their leaders and

restitution of their ancestral lands. The Griqua today live scattered over many parts of South Africa, while their ancestral lands are mainly in the Northern Cape Province.

The *Outeniqua* people of the Western Cape are also claiming recognition for their traditional leaders and for their cultural identity. Like the Griqua, they are descendants of the early Khoekhoen people of Southern Africa. Other descendants of the Khoekhoen are the *Korana* and the *Nama* or Naman of the Northern Cape. The last two groups are also becoming aware of their cultural roots and identity.

Today the *Bushmen* of South Africa are found at Kagga-Kamma and Schmidtsdrift. The people of Kagga-Kamma are a small group who originally lived in the northwest of the Northern Cape Province. They were later resettled on a game reserve at Kagga-Kamma in the Western Cape Province. They claim restitution of their ancestral lands and negotiations with the Department of Land Affairs have already started. They are hoping to return to their ancestral lands soon.

The *!Xū* and *Khwe* people of Schmidtsdrift have to leave their present area as this was awarded to the Tswana people as a result of a land restitution claim. The *!Xū* and *Khwe*, together with the *!Xū* and *Khwe* Trust, appointed a development consultant to prepare resettlement plans. These plans were submitted for approval to the provincial government. Land for resettlement was also identified and can be bought as soon as the plans are approved.

The *!Xū* and *Khwe* communities have each established a community council to negotiate their resettlement with the authorities. In 1995 members of the community were invited to visit Bushmen in Botswana. Two members also attended a workshop on Bushmen research which was arranged by the University of Botswana at Gaborone.

At present the Trust is facilitating a number of development projects at Schmidtsdrift. The Trust employed some *!Xū* and *Khwe* women to prepare children for school by teaching them in their mother tongue. A few women are employed as community development officers. They are attached to the local clinic and form a social work section to assist with the identification of people in need. The arts and culture project of the Trust is going well. During the last year two contracts with international firms were concluded on behalf of the artists for the exhibition of their work internationally.

PART II

INDIGENOUS RIGHTS

INDIGENOUS PEOPLES AT THE UNITED NATIONS

THE DECLARATION REACHES THE COMMISSION ON
HUMAN RIGHTS

By Andrew Gray

Between 20th November and 1st December 1995, indigenous peoples from all over the world went to the United Nations in Geneva to defend the draft Declaration of their rights which is currently passing through the UN system. In August, 1994, after 12 years of work, the expert body of the United Nations' Commission on Human Rights (the Subcommission on Prevention of Discrimination and Protection of Minorities) had unanimously approved the draft Declaration on the Rights of Indigenous Peoples. This document had previously been drafted by a Working Group on Indigenous Populations (UNWGP) which meets with hundreds of indigenous representatives in July every year in Geneva to hear their concerns and draft legal standards to protect their rights.

The approval by the Subcommission was extremely significant because it means that impartial experts of the United Nations have accepted the Declaration. Since the document was passed, indigenous peoples have continued to study the text and the overwhelming response is that, whereas it is not as strong as an indigenous declaration would be, it constitutes acceptable minimum standards for guaranteeing indigenous rights.

The Declaration has now begun its tortuous passage from the expert bodies up to the highly politicised realm of the UN Commission on Human Rights consisting of 53 government delegations which meet every year in February and March. Here the governments are now dissecting the text of the Declaration, bringing to bear their own concerns, national agendas and political biases. The draft will be amended at the Human Rights Commission and then pass through the Economic and Social Council (ECOSOC) to the General Assembly of the United Nations for final approval.

Work on the Declaration was too time-consuming for the Commission on Human Rights so, in March 1995, a Working Group was established to re-draft it. The Working Group is 'intersessional' because it takes place during the period between Commission meetings and it is 'open-ended' in that all governments, inter-governmental organisations and non-governmental organisations with consultative status at the United Nations can participate. However, this form of UN participation seems far from 'open-ended' to indigenous peoples who constantly insist that they should be present at any attempt to define their rights. They want to represent themselves and not always have to rely on NGOs with consultative status. In response, the Commission on Human Rights opened up the possibility of participation for indigenous organisations, but only after constructing a complicated process for application. Indigenous organisations and peoples have to apply to the Coordinator of the International Decade for Indigenous Peoples, Mr. Ibrahim Fall. He consults with the state governments of each applicant and then forwards the information to the UN Committee on Non-Governmental Organizations in New York. This body then decides whether or not to recommend the authorisation of participants to attend the Working Group whenever it sits.

By the beginning of the Working Group on November 20th, 99 applications had been received from indigenous representatives and, in meetings on the 18th and 31st of October, the NGO Committee approved 78. The 21 cases still pending will be dealt with together with new applications at a later date. In the event, over 100 indigenous representatives took part in the meeting. No one knows how long the Working Group will meet but estimates vary at between five and ten years.

Initial Concerns

Once the Declaration reached the hands of governments at the Commission, indigenous peoples prepared for the worst. The main areas of concern were how the meeting was to be chaired, the extent to which indigenous peoples would have genuine participation and whether the draft Declaration would be accepted as the basis for discussion.

In many UN Working Groups, the Chair is a major factor in the progress of the meeting because he or she can determine the methods of work. The two models facing the meeting was the open

forum of the UN Working Group on Indigenous Populations where everyone has the right to speak equally or, alternatively, the Commission on Human Rights, which has complicated procedures in speaking time and is dominated by governments. Choosing a Chair could have taken days, but in the event Mr. José Urrutia from Peru was elected in the space of an hour on the first day by unanimous agreement of the governments.

Although access to the Commission Working Group is not as straightforward as that of the summer Subcommission Working Group, no indigenous person was prevented from entering or from speaking. José Urrutia proved to be an efficient and fair moderator, regularly meeting with the indigenous participants, allowing everyone to speak and consulting widely (not only with governments) when problems arose. The first decision after his election was that the Subcommission's draft Declaration should provide the basis for discussion. This allayed indigenous fears that the draft Declaration would not even be accepted as the starting point the Commission's Working Group discussion.

The position of the indigenous peoples present was summed up in a resolution presented at the beginning of the first session of the Working Group:

"It is the consensus of the Indigenous Representatives attending the Indigenous Peoples Preparatory Meeting in Geneva, November 18-19, 1995, that the United Nations Draft Declaration on the Rights of Indigenous Peoples as adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, be adopted by the Working Group created by the Commission on Human Rights through Resolution 1995/32 of 3 March, 1995, as it reflects minimum standards for the survival of Indigenous Peoples."

Peoples and Definitions

In the afternoon of the first day of the Working Group, an indigenous ceremony took place in the meeting room and set a positive tone for the discussion, after which the Chairman brought to mind the murder of Ken Saro Wiwa. These two events went even further than the Subcommission Working Group in allowing public expressions of indigenous culture and reflecting their concerns. Several general statements by indigenous and government delegations established the overall interests of the different participants. Most of those present favoured a reading of the Declaration section by

section where opinions could be presented as to the advantages and disadvantages of the draft.

The discussion raised two issues which have recently plagued UN discussions on indigenous peoples. Brazil raised the first question, continuing a theme which they have been championing since the Congress on Human Rights in Vienna. At the Vienna meeting Brazil insisted on substituting the term 'indigenous people' for 'indigenous peoples' in the final statement. Supported by the United States, Canada and Bangladesh, a small group of countries have threatened consensus formation in so many meetings that the term 'people' without an 's' has found its way like a bad misprint into several UN documents.

The debate of the 's' in peoples relates to the fact that in United Nations instruments, all peoples have the right to self-determination. Furthermore, the use of the term 'peoples' refers to a collectivity where rights are enjoyed by groups as well as individuals. The countries which complain, want to recognise neither self-determination nor indigenous peoples' collective rights. By removing the 's' they aim to take the life out of the draft Declaration and conceptualise indigenous people as individuals.

The absurdity into which this discussion can fall took place when Brazil objected to the name 'Open-ended inter-sessional working group on a draft United Nations declaration on the rights of indigenous peoples'. In spite of the fact that the Declaration uses 'peoples' consistently, Brazil insisted that the 's' be removed. After considerable discussion a compromise was reached, avoiding the word peoples altogether; a new name was provided: 'Working Group established in accordance with Commission on Human Rights resolution 1995/32 of 3 March 1995'.

At the same time, several Asian countries, led by the representative from Bangladesh, insisted that before discussing the Declaration in detail there should be a debate on its scope (this meant primarily a definition of the term 'indigenous').

There was some concern that the Asian group would hijack the meeting and delay the proceedings in the same way as had occurred in a symposium on the Permanent Forum at Copenhagen earlier in 1995, where filibustering by Bangladesh and India caused the meeting to continue until 3 am. An Asian statement by the regional group presented on the afternoon of the second day by Nepal insisted that 'it is crucial to define "indigenous people" taking into

account that the term has its genesis in... "the unique situation of the original inhabitants of the Americas and Oceania, who were, at a point in history, overrun by settlers from overseas". The statement, which was backed by the threat of a walkout by the Asian countries, was clearly aimed at ensuring that the Declaration did not apply to Asia.

The morning of the third day was abuzz with negotiations between the Asian countries and the rest of the meeting. A compromise was reached where the afternoon session would be devoted to a discussion on 'scope' and comments on the Declaration itself would begin the following day. The first speaker was the Fijian government representative who strongly denounced the attempt by the Asian countries to enforce one position on the rest of the meeting. An indigenous statement was then read by the *Maori* representative Moana Jackson:

"It is a historical fact, as tragic as it is incontrovertible, that the endeavour of Indigenous Peoples at the WGIP and in this forum have been largely motivated by the dispossession of colonisation.

The taking of land, the dismissal of language and culture, and the denial of Indigenous Peoples' right to determine their own destiny are all consequences of colonial dispossession which this declaration seeks to address in the eyes of Indigenous Peoples.

Within that context, any efforts to define who or what are Indigenous Peoples are seen as further attempts to dispossess and take away our inherent right to be. Indeed to assume a right to define Indigenous Peoples is to further deny our right to self-determination, since there can be no more fundamental expression of that right than the ability to determine who one is through self identification. It has been constantly reaffirmed by Indigenous Peoples that to define membership, identity and status must be pursued by Indigenous Peoples without external interference. It is our concern that States now seek to define who we are amounts to such an interference.

The right of self determination is a precondition for the exercise of all other rights and to delimit it through an assumed authority to define Indigenous Peoples is in effect to delimit all our rights.

In a more specific sense it is our submission that to attempt such a definition is in fact unnecessary. By its nature the declaration must be inclusive, universal and world-wide, rather than exclusive and narrowly focused. Other human rights instruments have

operated effectively without particular definition, as for example the Declaration on the Rights of Minorities where the term minorities is not defined. It would be our submission that this Declaration will operate equally effectively without attempting the difficult task of defining the term Indigenous Peoples.

We would however reiterate our concern that for States to assume a right to define who we are is to deny the right to self determination. The old adage that 'the namer of names is the parent of all things', has been a recurring source of denial and dispossession of Indigenous Peoples. We would urge that this Declaration not be used to maintain that appropriation by others which has so sadly marked our past."

All the indigenous peoples present supported this statement as did many governments. Bangladesh presented the case for limiting scope to the Americas and Oceania and argued that self-identification opened the concept to 'pretenders'. Meanwhile the indigenous peoples from Asia had prepared their arguments with detailed documentation. Prior to the meeting the Philippines indigenous delegation informed their government representative that not only was indigenous included in Article 2 sec. 22 of the Constitution, but that the President had publicly endorsed the draft Declaration in its entirety. In her speech, the Philippine government representative clearly distanced herself from the Asian group statement of the previous day.

The Nepal delegate, who had presented the Asian group statement was later informed that he was speaking against his own government's policy as the concept of indigenous is recognised there. As part of the observation of the International Year of Indigenous Peoples, the government of Nepal established a committee to oversee national indigenous activities. When challenged on this point after the meeting, the government representative admitted that he had only done what Bangladesh had requested.

However the most pertinent information came from Bangladesh itself, where the Asian indigenous group demonstrated clearly that in Act No. 12 of 1995, published in the Bangladesh Gazette on June 30th, paragraph 27, there is a reference to 'Indigenous hillmen' in the Chittagong Hill Tracts, exempting such indigenous peoples from the taxation of economic activities. Other similar references to 'indigenous hillmen' were produced from the Bangladesh Na-

tional Board of revenue documents of March 10th, 1980; April 9th, 1980, October 17th 1992 and June 12th, 1995. This information deflated the whole presentation by Bangladesh and with few further comments, the discussion of scope, over which so much time has been fought, finished half an hour early. The debate had been a fiasco for the Asian countries which proposed it because they had played a high card by threatening a walk out in return for the discussion, and in the event had gained nothing.

Afterwards, one indigenous participant said "this was the first moment in the meeting when we had our backs to the wall". Nevertheless the unity of the indigenous caucus remained strong; indeed just prior to the discussion, participants agreed that an attack on one indigenous region would be treated as an attack against all. This solidarity kept up momentum throughout the meeting.

The question of peoples and definition, did not disappear, however. The 's' returned with a vengeance during the writing of the Working Group report, while the scope question will probably be taken up at the next Subcommission Working Group on Indigenous Populations. Nevertheless, the discussion showed clearly that indigenous peoples are not prepared to accept the use of the term 'people' without an 's' and that any attempt to define them in order to limit the scope of the Declaration will be completely unacceptable.

Discussion of the Declaration - Indigenous versus Governments

The following five days were taken up by a discussion of the Declaration taking the Preamble and each of the nine parts in turn. The procedure consisted of indigenous peoples and governments making comments on the text. A summary of the comments was then written up by the Secretariat for inclusion in the final report for the Commission, which was circulated among the participants in draft form. Whereas the indigenous peoples at the meeting consistently reiterated their desire that the Declaration be accepted as it was, the governments clearly plan to redraft it. However there was no consensus among the governments as to how to do this.

The governments in the United Nations are divided into five areas: Asian states (including the Pacific); Latin American and Caribbean states; Western European and Other states; Eastern European states; and African states. The first three groups were the most vocal in the discussion, but in no region was there any firm

consensus. For example, in Asia, the negative views of Bangladesh, India and Japan towards the Declaration were in complete contrast with the full endorsement by Fiji. In Latin America negative views of Brazil, Argentina and Peru were opposed by Bolivia, Colombia, Nicaragua and Cuba. In the Western block, negative approaches by the USA and Canada were opposed by the Nordic countries. The lack of a regional government consensus helped to ensure an open debate and might explain why, with the exceptions of Brazil, Bangladesh and the USA, no country openly tried to impose its views on others.

Whereas indigenous peoples and supportive governments justified their acceptance of the Declaration in terms of rectifying violations of human rights, those governments opposing the Declaration argued that it was 'unclear or 'impractical'. However the most frequently used criticism was to relate the Declaration unfavourably to existing national and international law. This argument involves sleight of hand because it avoids discussing the content of the text and simply relates the discussion to other legal provisions. As might be expected, according to this argument, the progressive aspects of the Declaration are rejected if they are stronger than international or national legislation and never strengthened if they are weaker. In this way existing legal provisions are used as a means of limiting the Declaration.

At several points in the meeting, this use of existing legislation to limit the draft Declaration was challenged. For example, a technical paper by the Secretariat analysed the whole Declaration in terms of already existing international legal instruments and showed it to be perfectly consistent. Various lawyers at the meeting substantiated the Declaration and the indigenous position by reference to a barrage of precedent.

Several countries which took a negative stance were clearly inconsistent with their national legislation. The initial position of Philippines ignored the fact that President Fidel Ramos has endorsed the draft Declaration in its totality. Peru's initial statement ignored several national and international commitments to indigenous rights. The reason for this is possibly that the government delegates were unaware of their national and international obligations to indigenous peoples. Indigenous peoples spent much of their time trying to educate government members in both national and international law.

The frustration of the indigenous peoples hearing national and international law used to thwart the Declaration came when Japan's consistently negative stance was challenged by Shigeru Kayano, an indigenous member of the Japanese Diet and on the committee to draft a new Ainu law. He said:

"The government of Japan has repeatedly made statements on the draft declaration, criticizing ambiguities of wording and unfamiliarity of some concepts of rights...As they have not made any constructive proposals, their position seems quite conservative and tightly negative to the draft declaration. Here, I would like to urge you not to accept their statements as unchangeable or fully-investigated attitudes of the Japanese Government. Of course I am fully understanding that the delegation of Japan is always controlled by Tokyo with little discretion in Geneva, so that it cannot be responsive to the discussion here or changes in the political process in Japan."

This statement summed up much of the frustration felt by indigenous peoples in dealing with the government arguments against the draft declaration. Finally one international lawyer, Hurst Hannum, said:

"On the international level, consistency with existing human rights norms means only that the rights set forth in the draft declaration should not fall below the current minimum standard... It is the purpose of the declaration to expand upon and clarify existing rights, not merely to repeat them."

Many delegations have objected to particular provisions of the draft declaration because they are inconsistent with existing domestic laws or constitutional provisions. First, of course, it must be recalled that no General Assembly declaration can directly create binding legal obligations... so no state would be required to amend its laws were the declaration to be adopted. In addition, the moral and political obligation of implementing the declaration in good faith requires only that the goals or purposes of the declaration be met, and in many instances the means of achieving those goals can be found within existing domestic law. Finally, it may be well to recall the status of the Universal Declaration of Human Rights in 1948: not every state which voted for the Declaration met all of its standards, but this did not prevent its adoption as a set of principles to be achieved progressively."

Discussion of the Declaration - Main Issues

The open discussion surveyed the whole draft Declaration in order to identify some of the main points. Several elements arose in all of the sections, particularly the question of self-determination, collective rights and control over resources. Nevertheless, certain features clustered together and it was possible to see positions around which discussions will focus during the next few years.

The Preamble

Although several governments made comments on the text, most of them decided to wait to comment on the substantive articles. However the question of 'peoples' arose again over the subject of the title. Australia, Norway, Finland, Russia, Cuba and Bolivia came out strongly in favour of the term 'peoples' while the USA, Japan, Canada and Brazil were opposed or consistently used 'people' in their presentations. In between were New Zealand and the United Kingdom who were prepared to discuss the matter further.

Another feature which arose in the Preamble was the United Nations' instruments which should be referred to at the beginning of the Declaration. Under scrutiny was ILO Convention 169, which is the only current document dealing with indigenous peoples. Indigenous representatives were not keen to refer to the Convention because it is considerably weaker than the text of the Declaration; at the same time some governments such as Brazil and Argentina opposed the inclusion because they consider that the text of the ILO Convention 169 is too progressive.

Part I - Self-determination

Part I of the Declaration 'concerns general principles covering indigenous peoples' rights to enjoy all human rights and fundamental freedoms, assurances of non-discrimination, the right of self-determination, the right to maintain and strengthen their distinct ways of life and the right to nationality. Much of the discussion focused on the concept of self-determination.

Self-determination is the right of all peoples to control their destiny and constitutes an all-embracing framework for all other rights. The indigenous representatives at the Working Group unanimously supported Article 3 of the draft Declaration: "Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their

economic, social and cultural development." Indigenous peoples based their position on the importance of equality between peoples. If all peoples have the right to self-determination, as is stated in several UN instruments, then indigenous peoples should not be treated any differently from anyone else. To do so would count as discrimination.

In all there were four broad positions on the concept of self-determination expressed at the Working Group: 1. Indigenous peoples supported self-determination in an unqualified sense, free from discrimination, as expressed in the draft Declaration. This was supported by countries from all over the world: Denmark, Norway, Finland, Australia, Bolivia, Cuba, Fiji were those most clearly in favour. 2. Some governments accepted the concept of self-determination but would like a clearer statement that the term does not affect the territorial integrity of states. Governments taking this position included Chile, Colombia, El Salvador and Indonesia. 3. A weaker position was taken by Sweden, New Zealand and Canada, which although not opposing self-determination, felt that more dialogue and negotiation was necessary. In principle they were able to consider the inclusion of the term self-determination providing that the meaning is unequivocal. 4. Several countries rejected self-determination and advocated terms such as 'autonomy'. Those countries, which were generally negative about the Declaration as a whole, such as Brazil, Argentina, Bangladesh, India, Japan, United States and France had difficulties with the concept. Many of those governments which did not speak would appear to be in 2 and 3. For this reason, the term self-determination was supported in principle by more governments than had been expected. The concept has by no means been rejected. However, the opponents are insistent and unless indigenous and progressive countries assert their positions, the strength of the draft Declaration could be seriously impaired. Indigenous delegates stated clearly that should self-determination disappear from the Declaration, they would consider the text worthless as it would be a discriminatory document.

Part II - Collective Rights

The second part of the Declaration looks at life, integrity and security. It is designed to promote the right of indigenous peoples to self-identification and freedom to belong to their own communities while protecting them from physical and cultural genocide as well

as the forcible removal from their lands and territories. Furthermore indigenous peoples have rights to special protection and security in periods of armed conflict. Throughout the text, indigenous peoples are recognised as having both collective and individual rights.

The discussion covered several points and a few governments questioned the definition of cultural genocide, asserting the right of states to conscript indigenous peoples into the armed forces and the need in exceptional circumstances to remove indigenous peoples from their territories. However the main discussion concerned the question of whether the Declaration should cover collective as well as individual rights.

Indigenous peoples and the legal experts at the meeting were adamant that collective rights were essential to the survival of indigenous peoples and that they have a reputable history in international law, ranging from the Convention on Genocide, through the Covenants on Human Rights to ILO Convention No. 169. One international lawyer, Patrick Thornberry commented: "It does not represent a technically adequate standard before this Working Group to make sweeping objections to all collective rights". Nevertheless, throughout the meeting collective rights were denied by the USA, France and Japan.

The insistence on this anti-collective stance was frustrating to the indigenous peoples because it lacked both logic and practical applicability. Indigenous land and territorial rights are based in the collectivity while any acknowledgement of indigenous institutions is meaningless without respecting the decision-making capacity of a group as a whole. Cree representative Sharon Venne illustrated this:

"As Indigenous Peoples, we believe that the rights of the individual are protected by the collective...When a eurocentric state government wants our lands, they use the collective right of expropriation. Our lands are taken for the collective good of the state. This is a collective right used by the state to take our lands. But when Indigenous Peoples invoke the use of the term 'collective rights', the state calls foul. Why is there a double standard? Our collective right is just as important as their collective right."

Government's positions on collective rights fitted broadly into the following categories: 1. Governments such as Norway, Finland,

Denmark, Australia, Fiji, Bolivia and Colombia had no problem with collective rights as expressed in the Declaration. 2. Some governments such as the United Kingdom and the Netherlands, were concerned that collective rights would affect the individual rights of indigenous peoples, but with reassurances on this question would not support an exclusive use of individual rights in the text. 3. Some governments such as Brazil, Chile, Malaysia and China accept that collective rights could be in the Declaration but want to negotiate and discuss clearly when this should be appropriate. 4. Several hard-line governments opposed collective rights. These were led by the USA, France and Japan. However Germany and Peru also appeared sympathetic to this position.

This list shifts some of the governments which were opposed to self-determination, such as Brazil, into being more positive on this matter than others such as Peru and Germany. The result is that there is no complete consistency in any government's position which means that they may be flexible and prepared to reconsider their line given time and reflection. Many of the delegates in Geneva were not familiar with indigenous questions and this also applies to representatives in some ministries in the home state who produced instructions on certain matters which are clearly erroneous.

Parts III and IV - Culture and Education

Part III is about culture, religious and linguistic identity and covers freedom to practise, revitalise and teach their traditions, customs and ceremonies. Little objections were raised to this Part, although New Zealand and Malaysia wanted clarification on the provision for the restitution of indigenous cultural, intellectual, religious and spiritual property. France insisted that French remain the language of its colonies.

The fourth part covers education and public information, recognising the rights of indigenous peoples to state education and to establish their own educational systems. Furthermore education curricula should promote understanding and tolerance of indigenous ways of life and reflect their values. The Part also contains provision for indigenous peoples to establish the media in their own languages and protects them from discriminatory employment conditions. Few negative comments were made on Part IV, although the USA considered that indigenous children living outside of their territories should not necessarily receive culturally appropriate education.

Part V: Participation, Consent and Positive Discrimination

Part V concerns economic and social rights. This recognises indigenous peoples' right to participate in decision-making which affects them and asserts that states shall obtain their free and informed consent before implementing any legislative or administrative measures. It also recognises the indigenous right to self-development, the right for special measures to improve their conditions and provide compensation for past deprivation. Special mention is made of the right to health facilities and the freedom to practise traditional medicine.

The first discussion centred around the concept of participation. During the discussion of the revision of ILO Convention 169, the terms consult and participate were seen as weak versions of the terms consent and control. The former pair of concepts recognised that indigenous peoples could discuss and take part in decisions which affected them, while the latter pair acknowledged their right to determine their destinies. Since that discussion, 'participation' has become a general term which covers the whole range of activities from consultation to consent. The meeting reflected this semantic shift and looked at the different meanings of participation.

The discussion was, in effect, about self-determination. Indigenous peoples saw participation as rooted in consent and control of their lives and governments such as Norway, Finland, Australia, Bolivia, Colombia and Chile agreed. Canada took a weaker position, and saw participation through the concept of 'self-government' while Sweden saw equality though state democracy as significant. Brazil and France, on the other hand, saw participation in the weakest form of consultation and the right to take part in state initiatives.

The other point of discussion in Part V concerned the question of special measures and priority of access to state resources. New Zealand and the USA did not like the idea of committing state finances to indigenous peoples and were severely criticised by indigenous representatives for refusing to accept their responsibilities. The question of special measures was raised by several governments, including the USA, Japan and France, as establishing a new form of inequality. Indigenous representatives and the legal experts present were at pains to explain that 'special measures' are not designed to make indigenous peoples less equal from others, but to ensure them a standard of living which is on a par with others in the same country. This was expressed by Hannum as follows:

"Recognition of the special position and rights of indigenous peoples does not represent an attempt to discriminate against others but merely responds to the historical injustices and contemporary reality outlined by many indigenous speakers...Obviously such special treatment is not only appropriate, but it is necessary...it is surely insufficient to attempt to dismiss serious discussion by calling them 'discriminatory'."

Part VI - Territories, Lands and Resources

Although this was expected to be one of the more contentious aspects of the Declaration, the discussion was not as divisive as had been anticipated. This part of the Declaration begins with a general recognition of the philosophical holistic aspect of indigenous territories and proceeds to recognise rights to own, develop, control and use them. Included here is the inalienability of indigenous lands and territories. Indigenous peoples have the right to restitution of lands taken without their consent, control over their resources and protection of their environment and cultural property.

The positions of the governments over these articles are as follows: 1. Bolivia and Colombia supported the indigenous representatives who clearly defended these articles of the declaration emphasising the importance of recognising lands, territories and resources that they have traditionally owned, occupied and used. 2. Australia did not acknowledge indigenous title absolutely and expressed its position by the example of freehold which can be extinguished in certain contexts. Finland and Norway were also slightly unclear of their position on lands and resources as these areas are to be approved during 1996. 3. Brazil, Argentina and Peru had problems with the term 'territory', which, although recognised in their national legislation, was ignored. Brazil argued that indigenous peoples only had usufruct rights to land as all territory was in the hands of the state. 4. The USA refused to recognise collective land rights at all and referred to 'persons owning land'. Japan also emphasised a desire to link indigenous land rights to state property law. France wanted to make environmental protection a condition of land rights. This position has been used by some environmental organisations but was roundly rejected by the World Wide Fund for Nature (WWF) which fully supported the land, territory and resources provisions of the Declaration as it stands.

Part VII - Indigenous Political Institutions

Part VII concerns indigenous institutions and looks at the right to determine structures and membership as well as possible options for self-determination, including autonomy and self-government. It supports the rights of indigenous individuals under international human rights standards and promotes freedom of movement between indigenous peoples divided by state boundaries. This part also recognises that indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and constructive agreements made with states according to their original spirit and intent.

The indigenous representatives re-emphasised their assertion of the right of self-determination and stated that the use of the terms 'autonomy' and 'self-government' should not be seen as limiting their rights. They unanimously supported the recognition and respect of treaties between indigenous peoples and governments as international agreements. The International Indian Treaty Council, the Maori and representatives from Treaty peoples in Canada made strong statements on this subject. The representative from Treaty Six said:

"All we are saying to Canada is, live up to the treaty as a whole and respect the treaty relationship that was established by our respective ancestors and everything else will fall into place....The very fact that an International Treaty was entered into by our Nations and the Crown is in itself a recognition of our sovereignty and self-determination and the relinquishment of that right was not even discussed at the time of the Treaty."

Colombia, Bolivia, Fiji, Australia and the Nordic countries were positive in the recognition of self-determination and treaty obligations. Those governments with treaty obligations such as New Zealand and Canada were equivocal, while the USA and Argentina were not enthusiastic about treaties being recognised as international agreements.

Parts VIII and IX - Implementation and General Provisions

Part VIII obliges states to give full effect to the Declaration and provide indigenous peoples with the procedures and financial assistance to bring its aspirations into fruition. The United Nations should establish a body to monitor the Declaration. The final part

says that the rights in the Declaration are minimum standards for indigenous peoples, both men and women, and should not weaken any future rights they might acquire. Finally the Declaration says that it should not be interpreted as implying any activity contrary to the Charter of the United Nations.

Discussion on these parts was relatively short. As with the other parts, the indigenous representatives were in favour. The Nordic governments considered that the current discussion on the establishment of a permanent forum would be relevant for the implementation of the Declaration. New Zealand was concerned with the financial obligations on states made by the Declaration. However Japan and the USA continued to reiterate their obsession with individual rights.

The Report

Throughout the meeting, the Chair and Secretariat had been drafting the final report and distributing it for consultation with the different parties. The final drafts were presented as three conference papers on the last two days and these were discussed in consultations and negotiations behind the scenes. The indigenous caucus met and formed a drafting group to read all of the reports and make their comments. Meanwhile small clusters of government representatives were strategising. Of particular note were Bangladesh, Brazil and the USA which had been the most vociferous about denial of the term 'peoples' and collective rights.

On the final day, it became clear that the main problem facing the report was that Brazil, the USA and Bangladesh wanted the term 'people' used throughout the report or that the term 'peoples' receive a bracket [] which shows that its status is under discussion. In this case it would mean a direct threat to the term peoples. Indigenous representatives and many governments were incensed that the proceedings were being delayed. In the first place the draft Declaration consistently uses the term peoples while throughout the meeting most of the participants (with the exception of a few governments) also used peoples.

Negotiations took place with a small group including Australia, Fiji, Chile and USA. A compromise was reached when a form of wording was drafted and placed at the beginning of the report. The indigenous representatives accepted it as did all of the governments. The extent to which the USA and Brazil are obsessed with

removing the 's' from peoples became clear when the meeting was held up for them to receive new instructions from home. The final wording was as follows:

"This report is solely a record of the debate and does not imply acceptance of the usage of either expression "indigenous peoples" or "indigenous people" in this report. Both are used without prejudice to the position of particular delegations where divergences of approach remain."

The amendments suggested by the indigenous participants at the meeting primarily concerned an accurate representation of what they had said. The report is important because it gives an indication of the feeling in the meeting for certain subjects. This involves interpreting indicators of support or dissent by using terms such as 'many', 'several', 'some', 'certain', 'few' and 'one'. The indigenous representatives wanted to ensure that their consensus positions were described by the term 'all'. The feeling from the report is that, in a government context, 'all' and 'many' accounts for agreement; 'several' and 'some' for room for negotiation and 'few' a minority position. However, these are still reflections on the meeting itself and many governments did not make comments.

The Chair of the meeting received the indigenous amendments and agreed that they would be included in the final revision of the text. The final hour of the meeting consisted of a reading of the report and the incorporation of a few minor amendments. The prior agreement over the word peoples and the Chair's willingness to incorporate changes led to a consensus and the report was gavelled through.

Future Activities of the Working Group

On the last day, informal discussions took place about several matters. It was agreed after much discussion that the next meeting should be held in November, 1996. Furthermore a resolution was passing through the General Assembly which should allow the UN Voluntary Fund for Indigenous Peoples to support representatives to both the summer and winter Working Groups.

The activities for 1996 were not discussed in detail. Most indigenous representatives and governments advocated a second year looking at the Declaration article by article but without entering into any drafting. This would provide more time for negotiations and enable indigenous peoples to explain their position to govern-

ments which have not been taking such an active part in the proceedings. Nevertheless, Australia seemed keen to begin drafting some of the less controversial articles and some other participants felt that the Working Group should start demonstrating results. No decision was made as to next year's working plan but the Commission on Human Rights in 1996 will be the place where resolutions for future activities will be drafted and discussed.

Conclusions

The indigenous caucus presented a united front at the meeting and the members provided a statement which summarises their position in the form of eight points: I. The Indigenous Peoples' Caucus expressed the importance of treaties as they confirm and are evidence of our right to self-determination. II. The Indigenous Peoples' Caucus asserted that the term 'Indigenous Peoples' must be adopted and further the right of self-determination as understood in International Law must attach to the term "Indigenous Peoples". III. The Indigenous Peoples' Caucus urged explicit recognition of lands, territories and resources that they have traditionally owned, occupied and used because of the long-standing history of dispossession of lands illegally or unjustly taken. IV. the Indigenous Peoples' Caucus reiterated their positions regarding their distinct status as first nations and peoples, and they further stated their support for the principles elaborated in Article 2 in order to protect their security, integrity and cohesiveness. V. The Indigenous Peoples' Caucus stated that the preamble is fundamental to the overall draft because it lays the philosophical foundations and contextual clauses and is responsive to the intent of the Declaration; the Indigenous Peoples argued for the consideration of the preamble by the operative paragraphs. VI. The Indigenous Peoples' Caucus reaffirmed the need to recognize the standards contained in the Draft Declaration as minimum standards, creating the foundation for the further development of Indigenous Inherent Human Rights. VII. The Indigenous Peoples' Caucus stated the need to retain the language of Article 45 to ensure that states and other persons do not interpret anything in the Draft Declaration in a manner of those rights specified. VIII. The Indigenous Peoples' Caucus reasserted that the Collective Rights of Indigenous Peoples must be respected and acknowledged pursuant to internationally recognized Human Rights Instruments.'

In summary it is possible to present governments positions in a somewhat rudimentary manner as a guide to future work. The governments are split within their regions but can be divided into vocal, which participated actively in the meeting, and the silent ones, which did not. Vocal countries cluster in four types: cold, tepid, lukewarm and warm while the silent governments are analysed into two on the basis of consultations during the meeting. (C) means current member of the Commission on Human Rights.

Vocal Countries

Cold	Tepid	Lukewarm	Warm
Bangladesh (C)	Canada (C)	Chile (C)	Australia (C)
Brazil (C)	Indonesia (C)	Mexico (C)	Colombia (C)
China (C)	Malaysia (C)	Russia (C)	Cuba (C)
France	Nepal (C)	Sweden	Finland (C)
India (C)	Philippines (C)	El Salvador (C)	Nicaragua (C)
Japan (C)	New Zealand	Panama	Bolivia
Peru (C)			Denmark
USA (C)			Fiji
			Norway

Silent Countries

Cooler	Warmer
Ecuador (C)	Netherlands (C)
Germany (C)	United Kingdom (C)
Ukraine	Spain
	Pakistan (C)

Unknown quantities

Algeria (C), Austria (C), Bulgaria, Costa Rica, Egypt (C), Ethiopia (C), Guatemala, Honduras, Italy (C), Sri Lanka (C), Greece, Iraq, Israel, Jordan, Kenya, Morocco, South Africa, Syria, Tanzania, Thailand, Uruguay, Vietnam.

Indigenous peoples have been aware for a while that once the draft Declaration reached the political levels of the United Nations it would be much harder to defend than hitherto. The meeting of the Working Group demonstrated that this is the case. There is far more government participation than at the Subcommission Working Group and indigenous peoples are clearly not the ultimate decision-makers as to their fate. For this reason, the open and fair approach by José Urrutia, the Chair, was welcomed by the indigenous peoples. He treated all participants as equals with the same rights to speak and to be consulted over the report. Indeed his allowing an indigenous ceremony to take place on the second day of the meeting was particularly appreciated. The meeting was a general discussion and although some governments were largely negative, the attacks on indigenous rights were not as forthcoming as had been expected. The indigenous caucus kept a unity and solidarity which meant that their position in defence of the Declaration was unbreakable. The atmosphere in the meeting was positive and indigenous delegations had time and space to discuss points with several governments and open up possibilities for understanding.

The process of drafting the Declaration has been educational for both indigenous peoples and governments. However it is clear that governments which have not participated in the drafting sessions in the Subcommission Working Group are still unclear about what it really means. Some Asian countries appeared less negative after discussing particular points personally and certain critical Latin American countries have admitted that the instructions which they received came from ministries not familiar with indigenous rights.

For this reason indigenous peoples and most governments do not favour rushing the process. A gradualist approach towards the areas of disagreement seems the most positive. With a few exceptions, Governments have not been blocking or rejecting the important concepts such as 'peoples', 'self-determination', 'territories', 'consent' and 'control'. Rather they 'seek clarification' which means that there is still room for discussion. The problems will arise at the point governments refuse to seek mutual understanding of these crucial concepts with indigenous peoples because this will threaten a break down in the dialogue.

Indigenous peoples at the meeting decided to make a priority of discussing these matters with their own governments in order to

make their positions clear and explain the reasoning behind the need for recognition of their rights. Much preparatory work therefore needs to be done before the next November Working Group.

INDIGENOUS PEOPLES AND THE UNITED NATIONS:

THE COMMISSION ON HUMAN RIGHTS
PUTS INDIGENOUS ISSUES ON THE AGENDA

By Inger Sjørølev

A new phase was entered in the ongoing relationship between the world's indigenous peoples and the United Nations, when at the fifty-second session of The Commission on Human Rights, which took place from the 18th of March to the 26th of April, indigenous issues were put on the agenda as a separate item. Until then, indigenous issues had been dealt with mainly under the item that contains reports from the Subcommission on Prevention of Discrimination and Protection of Minorities and thus includes the report from the Working Group on Indigenous Populations. This year, however, the situation has changed. First of all the Draft Declaration on indigenous rights has reached the level of the Commission and is being processed in a special intersessional working group, as related in Andrew Gray's report. Secondly the idea to establish a permanent forum for indigenous peoples within the UN has moved forward and is slowly starting to concretize. Resolutions have been put forward in the General Assembly concerning the Decade and the possible establishment of a permanent forum, and this was also dealt with in a workshop that took place in Copenhagen in June 1995.

On the whole, the number of meetings and activities of concern to indigenous peoples has expanded substantially within the last few years. There were thus many good reasons for putting the different subjects and activities together under one agenda item, to be discussed under a whole and within the context of the issues and problems, indigenous peoples themselves see as the most urgent. Achieving this result was, however, not easy, and for a while it looked as if the governments that had put forward the proposal to establish a separate agenda item would not be successful.

The process started some time before the actual meeting of the Commission began, when the Danish Government, which has just become a member of the Commission for the next three year period, forwarded the proposal to establish a separate agenda item on indigenous issues to the Bureau of the Commission. The proposal was at that time supported by 11 countries. It ended favorably, when on the 1st of April, the Brazilian chairman Ambassador Saboia announced that a new agenda item, item 23, indigenous issues, had been added to the agenda.

In 1996 the 53 members of the Commission are: Algeria, Angola, Australia, Austria, Bangladesh, Belarus, Benin, Bhutan, Brazil, Bulgaria, Cameroon, Canada, Chile, China, Colombia, Cote d'Ivoire, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Gabon, Germany, Guinea, Hungary, India, Indonesia, Italy, Japan, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mexico, Nepal, Netherlands, Nicaragua, Pakistan, Peru, Philippines, Republic of Korea, Russian Federation, Sri Lanka, Uganda, Ukraine, United Kingdom, United States, Venezuela and Zimbabwe.

The governments in the UN have formed themselves into five regional blocs: Africa, Asia, Central and South America including the Caribbean, Eastern Europe, and the Western and Other Group (WEOG), which besides the states of Western Europe includes Australia, Canada, Japan, New Zealand and the United States. The groups negotiate individually and aim to develop solidarity and reach internal agreements before the subjects come up for discussion and vote in the Commission.

Not surprisingly, the Asian group is the most difficult to deal with in matters of concern to indigenous peoples. The African group seems so far to be rather neutral, while the Central- and South American group and Eastern Europe with the Russian Federation are relatively open to arguments put forward by the leading states in these matters. These are for the moment a part of the WEOG, consisting of the Nordic countries, Canada, Australia and New Zealand. Other members of the WEOG are rather sceptical or even negative to the indigenous cause. Many of the European countries regard indigenous peoples as minorities and are negative towards collective rights. The United States has shown an openly negative attitude and seems to have been one of the most difficult states to deal with in the recent negotiations.

For the moment, Australia, Canada and Denmark with the Greenland Home Rule are the main promoters of indigenous rights. The initiative to establish a separate agenda item on indigenous issues came from Denmark, but it was put forward on behalf of Australia, Bolivia, Canada, Chile, Columbia, Denmark, Fiji, Finland, Iceland, New Zealand, Nicaragua, Norway, Peru, Sweden, the Russian Federation and Venezuela. Soon after, it aquired the support of a number of other Latin American countries. The arguments for a separate agenda item refered to resolution 50/157 of the General Assembly, which adopts the activities for the Decade and recommends that the Commission on Human Rights considers the convening of a second workshop on the possible establishment of a permanent forum for indigenous peoples. It also refers to resolution 1995/32 of the Commsission which says that the Commission should again at its 52nd session consider the question of a declaration under an appropriate agenda item to be decided upon. It furthermore refers to resolution 1995/32 of the ECOSOC which requests the Commission on Human Rights at its 52nd session to review the progress of the Working Group on the Draft Declaration and to transmit its comments to the ECOSOC at its substantive session in 1996. It concludes that "Because of the dynamic evolution of these issues, it is no longer appropriate to consider them under the item on the Report of the Sub-Commission".

After much lobbying and corridor talk in the Commission, the positive outcome of the initiative in the end was very much due to the support given by Canada, including the Canadian member of the Bureau, which assists the chairman. Not unexpectedly, the Asian group was the most negative towards indigenous issues, but the Western group was not too easy to deal with either, and much lobby work had to be done to get to the point when on the 1st of April, none of the country members seemed to be against establishing the agenda item - which had been named 'indigenous issues' to avoid the discussion of the 's' in peoples blocking the further process from the start. Put on the agenda as item 23, it was discussed on the afternoon session and an evening session on the 9th of April and part of the morning session on the 10th.

The few days in between the final adoption of the separate agenda item and the beginning of the discussions left little room for informing the indigenous representatives and making the practical and economical arrangements to reach Geneva. It was furthermore

in the middle of Easter, and many offices were closed and people out of reach. In spite of this, a number of indigenous representatives managed to be present, and 13 indigenous and support organisations were on the speakers' list for agenda item 23.

Important Statements

Among the many important statements made was one by the representative of the Kwe of Botswana, also known as Bushmen or San people. His speech recommended that upcoming items under agenda 23 include procedures for political participation in all decisions affecting indigenous communities; provision for the means and wherewithal for self development by indigenous peoples; protection and promotion of indigenous culture, etiology, knowledge and belief systems; and recognition of the rights of land ownership, access and use of traditional territories.

A statement by the Saami Council contained a number of constructive proposals, including a suggestion for a name of the permanent forum, which could be entitled *The UN Commission on the status of indigenous peoples*. It recommended the permanent forum to be established as a subsidiary body of the ECOSOC, and that it consider issues such as health, development, education, culture and environment. The mandate should enable the forum to deal effectively with issues concerning indigenous peoples, and it should

"have the potential to facilitate other UN organs and specialized agencies in devising coherent and coordinated policies and programmes for the benefit of indigenous peoples and which incorporate the indigenous view in their conceptualization and implementation."

This statement also emphasized the Draft Declaration as a major breakthrough, which should not be weakened in any way, and it urged the Commission's Working Group on the Draft Declaration to ensure that the principles of human rights on which the Declaration is founded are strengthened during the considerations of the Draft Declaration. It finally highlighted the cardinal issues for the Decade as the adoption of the Draft Declaration in its present form before the end of the first half of the Decade, and interestingly proposed the further development of international standards for the protection and promotion of the human rights of indigenous peoples by starting the drafting of a UN Convention on the rights of indigenous peoples in the beginning of the second half of the Decade.

A statement by the Society for Threatened Peoples addressed the issue of self-determination and the fact that some governments oppose the article in the Declaration that deals with self-determination with the argument that this is not a clear concept in international law. With reference to West Papua, the oppression of the *Karennis* by the Myanmar government, and the continuous violation of human rights in the Chittagong Hill Tracts, it stated that

"When a state's political system and government is so exclusive and non-democratic that it no longer can be said to represent the whole of the population, and oppresses the indigenous people, that people certainly should be permitted to exercise its rights to self-determination."

It also addressed the issue of international law being clear enough on the concepts of self-determination as relating to all peoples, and the concept of indigenous peoples in itself being just as well defined as other concepts in current use in international law. In another statement made in the name of IWGIA, a representative of the *Cree Nation* quoted that

"any efforts to define who or what are indigenous peoples are seen as further attempts to dispossess and take away our inherent right to be. Indeed to assume a right to define indigenous peoples is to further deny our right of self-determination, since there can be no more fundamental expression of that right than the ability to determine who one is through self identification."

Aside from addressing their specific problems and concerns, most of the indigenous speakers expressed their appreciation that indigenous issues had become a separate agenda item. They were also quite unanimous in emphasising their wish that the Draft Declaration be kept in its present form, and many advocated for the continuation of the discussions and negotiations to establish a permanent forum.

On the government side, 13 member governments and a smaller number of observer governments spoke. On the whole, the speeches welcomed the fact that the Commission has taken up the indigenous issue. Many mentioned the further work on the permanent forum and the drafting of the Declaration, and many praised the work that has been done by the WGIP.

In the statement given by the representative of the Greenland Home Rule Government on behalf of the Nordic countries, the

Centre for Human Rights, the NGO-committee and governments were urged to do their utmost to ensure the most liberal access possible for indigenous representatives to the working group that deal with the Draft Declaration. It was regretted that the first meeting in the working group had not been truly open to all indigenous participants. At the same time, it complemented the chairman of the group, Ambassador Urrutia, on the transparent way in which the negotiations were conducted and on his frequent consultations with indigenous representatives. This statement also mentioned the review of existing UN mechanisms, procedures and programmes relating to indigenous peoples which had been agreed upon during the workshop on the permanent forum in Copenhagen in June 1995. The review was confirmed by the fiftieth General Assembly, and it is to be finished before the fifty-first General Assembly in 1996. The Nordic countries urged the Secretary-General to ensure that the results of the review be circulated "well in advance of the fifty-first session of the General Assembly to allow sufficient time for consultations with indigenous peoples." It is expected that the results of this review will be ready for discussion among the indigenous representatives at the WGIP meeting in July.

It should be added here that the review was proposed as a way of acquiring a better documentation on the current state of affairs in the UN concerning indigenous peoples' accessibility to the system, and the ways in which the organisation's different bodies and instruments take care of indigenous peoples' interests. This of course in connection with demonstrating the need to establish a permanent forum for indigenous peoples - a forum whose mandate and activities should be based on indigenous peoples' view of the wants and negligences of the system as it is, and the need to coordinate those instruments that do exist within the system.

The Nordic statement, along with other government statements also mentioned the idea of holding a second workshop to further discuss the possible establishment of a permanent forum between indigenous representatives and governments. This workshop can only take place after the General Assembly and the Commission on Human Rights have received and discussed the results of the review at their next sessions. The Nordic countries are eager to promote the idea of a permanent forum, and in their joint statement they also urged the WGIP to give priority consideration at its fourteenth session to the discussions of indigenous peoples' thoughts about the structure, mandate and scope of such a forum.

After the completion of the speeches on this agenda item - which surprisingly enough, considering the short preparation time, took up more than one whole day - the work on the resolutions began. Four resolutions concerning indigenous issues were put forward, initiated by Australia, Denmark and New Zealand. The following is a list of these resolutions and their main points.

Resolutions Adopted on the 19th of April at the Fifty-Second Session of the Commission on Human Rights

1) Resolution on the permanent forum, put forward by the Danish government and supported by 30 members of the Commission, (E/CN.4/1996/L.70/rev.1).

In presenting the resolution for adoption, the Danish delegation representative, with reference to the dialogue between governments, said:

"The aim of the draft resolution is exactly to strengthen and to widen this dialogue, based on the results achieved so far in the General Assembly, in the Commission on Human Rights and at the UN Workshop held in Copenhagen in June 1995. The draft resolution supports the idea that came up at the Copenhagen workshop that existing UN-mechanisms, programmes and procedures concerning indigenous peoples should be reviewed by the Secretary-General. This review is now in progress and it is our hope that the outcome of the review, as well as the report from the Copenhagen workshop, will further strengthen the dialogue on a permanent forum, as stipulated in the draft resolution."

The resolution itself

"welcomes the recommendation of the General Assembly, as contained in Assembly resolution 50/157, that the Secretary-General, drawing on the expertise of the Commission on Human Rights, as well as the Commission for Sustainable Development and other relevant bodies, undertake a review, in close consultation with Governments and taking into account the views of indigenous people, of the existing mechanisms, procedures and programmes within the United Nations concerning indigenous people and to report to the General Assembly at its fifty-first session."

The resolution also

"requests the completion of the review and its circulation to governments, relevant intergovernmental organizations and organizations of indigenous people for their comments well in advance of the fifty-first session of the General Assembly".

Just as importantly, it

"requests the Working Group on Indigenous Populations at its fourteenth session to continue to give priority consideration to the possible establishment of a permanent forum for indigenous people and to submit its further comments and suggestions, through the Sub-Commission, to the Commission on Human Rights".

It

"requests in particular, the WGIP to place the WGIP's own contribution to the review of existing mechanisms, procedures and programmes concerning indigenous people on the agenda of its fourteenth session and requests the Secretary-General to invite relevant United Nations bodies and specialized agencies to submit written information on their contributions to the review to be conducted by the Secretary-General in accordance with General Assembly resolution 50/157."

The next aim in the process of establishing a permanent forum is to convene another workshop, and the resolution

"Decides to continue the consideration of a second workshop at its fifty-third session in the context of the Commission's continued consideration of the possible establishment of a permanent forum under the agenda item entitled 'Indigenous Issues'.

2) Resolution on the open-ended Working Group on the Draft Declaration on indigenous peoples' rights, (E/CN.4/1996/L.55). This resolution was put forward by Australia and adopted without a vote. Its main conclusion is that it

"Authorizes the open-ended inter-sessional working group of the Commission on Human Rights established in accordance with resolution 1995/32 of the Commission on Human Rights to meet for a period of 10 working days prior to the fifty-third session of the Commission, the costs of the meeting to be met from within existing resources;"

It also

"Encourages organizations of indigenous people which are not already registered to participate in the working group and which wish to do so to apply for authorization in accordance with the procedure set out in the annex to Commission on Human Rights resolution 1995/32."

3) Australia also put forward a resolution, (E/CN.4/1996/L.56), supported by the Scandinavian countries and other governments, and adopted without a vote, concerning the Decade. The most important paragraphs in this resolution are the operational paragraphs 5 and 6, the wordings of which are respectively:

"Welcomes the affirmation by the General Assembly as a major objective of the Decade the adoption of a declaration on the rights of indigenous people;" and "Also welcomes the recognition by the General Assembly that among the important objectives of the Decade is the consideration of the possible establishment of a permanent forum for indigenous people within the United Nations;"

A number of governments, including USA, the UK and some Asian countries made efforts during negotiations to erase the reference to the establishment of a permanent forum for indigenous peoples as an important goal for the Decade. With the support of some Latin American countries, the reference was, however, kept in the resolution.

4) Finally a resolution was adopted on the WGIP, (E/CN.4/1996/L.66). It was put forward by New Zealand and supported by Australia, Canada, the Scandinavian countries and a number of Latin American countries.

Its main content is the recommendation that the Working Group be authorized to meet for five working days prior to the forty-eight session of the Sub-Commission. On the suggestion of Denmark it recommends in operational paragraph 10 that during the coming meeting of the Working Group, a discussion is held on the contribution of the WGIP to the ongoing review of existing UN-programmes and mechanisms concerning indigenous peoples. A major subject for discussion prior to the adoption of this resolution was operational paragraph 7, which deals with the question of definition

of indigenous peoples. As will be known by the readers of IWGIA publications, the question of definition is being brought up regularly, mainly by Asian governments who oppose the inclusion of their own indigenous peoples under the accepted international term indigenous. The wording in this resolution reflects a compromise between those governments that find that a further dealing with the question of definition is unnecessary and those that keep stating the necessity of taking up this issue. It says:

"Takes note of the recommendation of the Working Group that the Chairperson-Rapporteur address the concept of indigenous people, notes that any work should take into account the views of Governments and organizations of indigenous people, and requests that discussion of this issue take place during the fourteenth session of the Working Group under the existing agenda item on standard-setting and that the report of the Working Group be transmitted to Governments and organizations of indigenous people prior to the next session of the open-ended inter-sessional working group of the Commission on Human Rights established in accordance with resolution 1995/32."

Final Comments

As will immediately be noticed by indigenous readers, all the wordings in the resolutions omit the 's' when referring to indigenous peoples. This is of course a step backward. The governments that are supportive of indigenous rights are aware of this fact, but they argue that if they do not omit the 's' in the draft resolutions, negotiations for adoption will stop before they even begin. It may be true, but still is not a good excuse, and certainly will not keep indigenous representatives from continuing their fight for the 's' as representing the rights of a people.

In spite of this the fifty-second session of the Commission on Human Rights must be regarded as quite satisfactory from the indigenous point of view. Having indigenous issues under a separate agenda item will from now on make it easier and less expensive for indigenous representatives to be present when the subjects of their concern are discussed. Anyone who is just a little bit familiar with the UN work will know that we are here dealing with a very slow process, where little things that may seem insignificant can sometimes be regarded as big steps forward. The further fate of the Draft Declaration, the possible future of a permanent forum, and

the general outcome of the Decade is still unknown. Like so many other times, indigenous peoples have not much more than their hopes and their own energy to rely on. It is good that the number of activities of concern to indigenous peoples is increasing in the UN, and although the indigenous question should certainly not be isolated to one agenda item on the comprehensive agenda of the Commission on Human Rights, it is good that indigenous representatives will from now on have a chance to plan their presence and their contribution to the debate in the Commission better.

This year, an indigenous representative reminded the Commission that a representative of the *Haudonesne* people in 1923 tried to get access to the League of Nations, but was denied. Now, in 1996 there is progress with a separate agenda item. Her slight irony in stating that for this, the indigenous peoples are grateful, is understandable.

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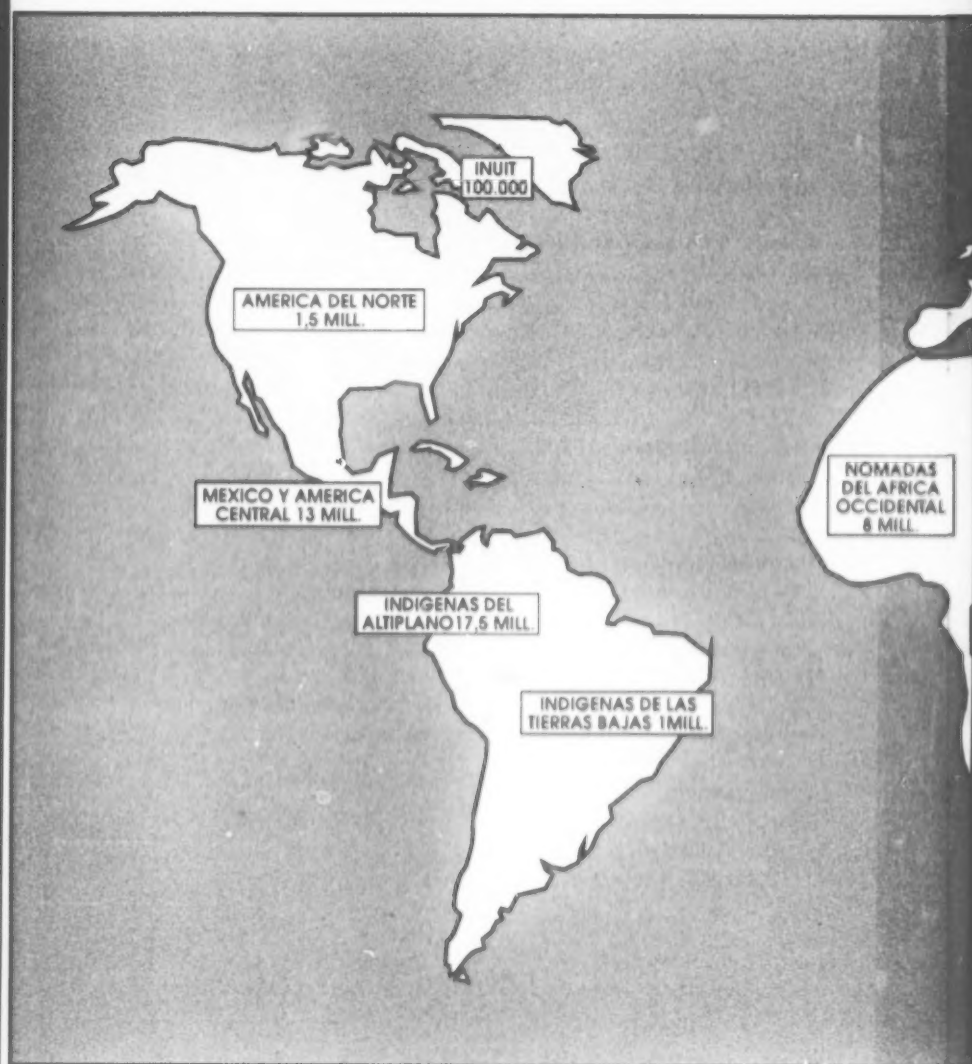
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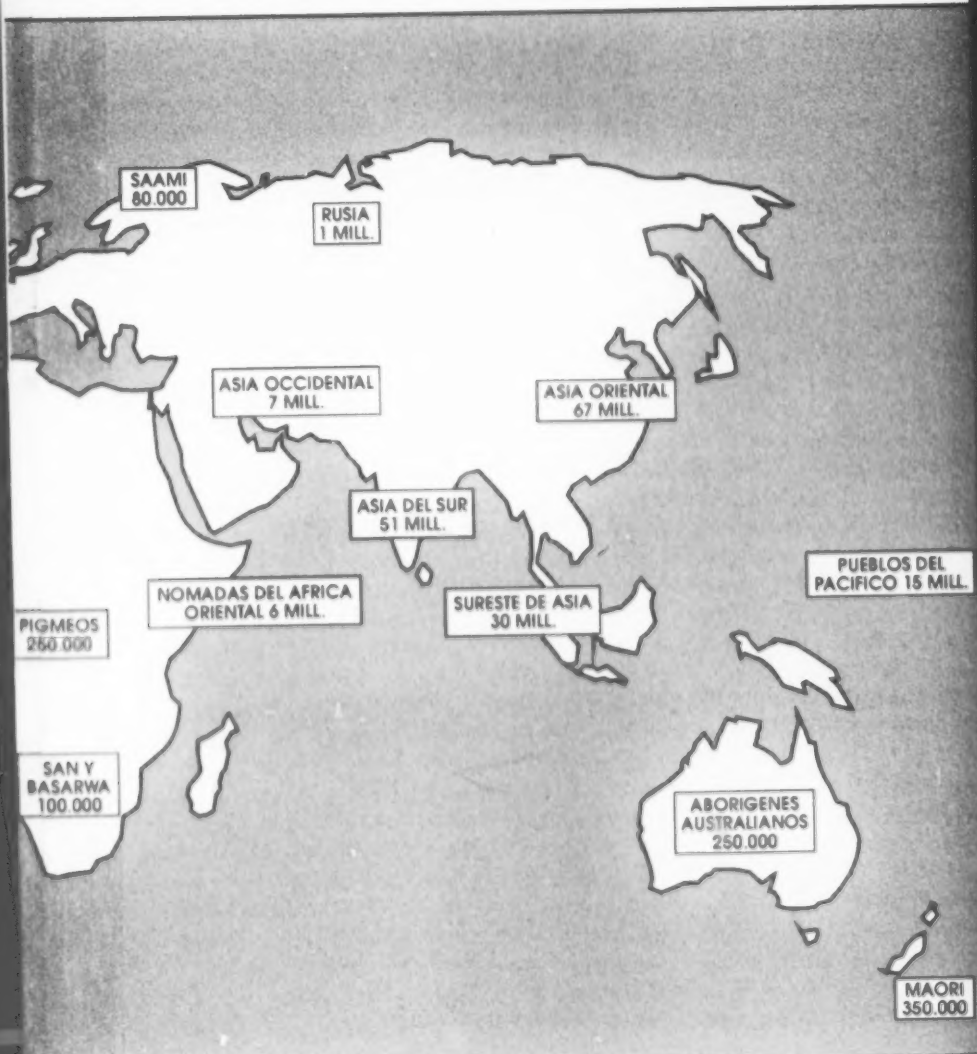
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INTRODUCCIÓN

1995 y 96 han demostrado que la situación y los problemas de los pueblos indígenas están logrando una creciente atención en la agenda mundial. Ésto se refleja en el trabajo de las Naciones Unidas, el Banco Mundial, el Banco Asiático de Desarrollo y diversas agencias gubernamentales nacionales de ayuda. Sin embargo, hay a menudo un largo trecho entre las palabras y las buenas intenciones, y la acción, y los pueblos indígenas de todo el mundo todavía enfrentan enormes penurias.

Como se refleja en esta edición de *El Mundo Indígena*, los problemas de los pueblos indígenas se encuentran frecuentemente relacionados directamente con la dinámica y las intervenciones del gran capital y de las corporaciones multinacionales. Los territorios tradicionales de los pueblos indígenas a menudo representan un potencial de alto valor económico para los estados nacionales y para las corporaciones internacionales, y actividades tales como la minería, la explotación del petróleo, la explotación maderera, el establecimiento de represas y parques nacionales, constituyen una amenaza enorme a los territorios de los pueblos indígenas. Para sólo mencionar algunos ejemplos desarrollados más ampliamente en *El Mundo Indígena*:

Amenazas a territorios indígenas

La extracción de petróleo en Ogoniland, Nigeria, llevada a cabo por Shell, ha dado por resultado la destrucción a gran escala del medio ambiente. Los indígenas *ogoni* protestan contra esta destrucción masiva de su medio ambiente, y como respuesta se han encontrado con terribles abusos de los derechos humanos de parte del gobierno militar nigeriano. La represión del pueblo *ogoni* alcanzó los titulares de los medios de difusión internacionales en 1995 con el colgamiento del líder *ogoni* Ken Saro-Wiwa y otros ocho activistas *ogoni*.

En Colombia el territorio *u'wa*, como muchos otros en la región amazónica, está siendo amenazado por las compañías petroleras. Los *u'wa* han manifestado su oposición a la exploración petrolera

en sus territorios. Aunque no se establece explícitamente en los contratos, las licencias para la explotación del petróleo en Colombia otorgan a las compañías multinacionales el derecho a decidir el destino de las tierras indígenas.

En Perú, el gobierno ha lanzado una promoción agresiva de la industria de los hidrocarburos y autoriza importantes medios para el desarrollo de actividades petroleras, incluyendo la explotación en tierras indígenas sin respetar los derechos indígenas y sin consultaciones previas tal como se estableció en el Convenio 169 de la OIT. Esto ha tenido graves consecuencias para los pueblos indígenas, entre otras, la destrucción del medio ambiente.

En Papúa Occidental, Indonesia, la Compañía Freeport Indonesia S.R.L. opera la mina de oro más grande del mundo y la segunda mina abierta de cobre. Sus operaciones han dado por resultado la destrucción del medio ambiente y abusos de los derechos humanos de los pueblos indígenas del área, y se informó de conflictos y matanzas a gran escala en 1995.

En Labrador, Canadá, se realiza una explotación intensiva de minerales, y más de 40 compañías tienen programas activos de perforación en los territorios de los *innu* y de los *inuit* sin su consulta previa o consentimiento.

En las Filipinas, el gobierno continúa permitiendo la implementación de sus proyectos de desarrollo «prestigiosos» e inversiones en áreas de los pueblos indígenas. En el norte de Luzón, se van a construir dos represas a pesar de la resistencia de los grupos indígenas, los cuales no confían en las promesas del gobierno de que nadie será desalojado por la fuerza.

En Namibia, el gobierno piensa construir una gran represa en la parte septentrional del país donde vive el pueblo *himba*. El gobierno considera que la represa es la solución de las necesidades energéticas futuras de Namibia, y es el proyecto industrial más grande de Namibia después de la independencia. Sin embargo, las consultas con los *himba* han estado muy descuidadas, y aquellos *himba* que arriesgan perder sus tierras han quedado aislados en su resistencia al proyecto.

En Kalimantan, Indonesia, se realizan plantaciones comerciales de árboles en gran escala en las áreas indígena *dayak*, y en 1995 y 96 se informó de conflictos severos entre proyectos de explotación comercial de árboles y los *dayak*. Los *dayak* quieren que les sean devueltas sus tierras y en varias ocasiones han quemado propiedad de las compañías.

En Sabah, Malaysia, muchas comunidades indígenas han perdido sus tierras debido a la explotación forestal cuando casi el cincuenta por ciento del área total forestal de Sabah fue registrada como Parque y Reservas Forestales. La mayoría de las reservas forestales están destinadas a la explotación maderera y nunca se informó a las comunidades indígenas que se habían incluido sus tierras tradicionales en estas reservas. Igualmente, muchos pueblos indígenas han perdido tierras a manos de compañías de plantación industrial de árboles.

En Tanzania, los *maasai* enfrentan el problema de perder sus tierras tradicionales, lo cual constituye una amenaza a su estilo de vida nómada. Han sido expulsados de la Reserva de la Fauna de Mkomazi porque su presencia en la Reserva, según el Gobierno y el «lobby» de protección de la fauna, constituye una amenaza contra la fauna.

En Uttar Pradesh, India, los *van gujar* han enfrentando hasta mediados de 1995 la amenaza de ser expulsados de sus bosques ancestrales. Sin embargo, se han organizado con éxito y trazado un Plan Comunitario de Manejo Forestal de Areas Protegidas. Si se implementa, se creará el primer Parque Nacional Popular de la India.

Violaciones de los derechos humanos

Siguen ocurriendo severos abusos de los derechos humanos contra los pueblos indígenas en muchas partes del mundo. La situación es sumamente seria en varias partes de Asia donde muchos gobiernos se niegan a reconocer a sus poblaciones indígenas y donde se instrumenta una severa represión bajo el pretexto de que la unidad nacional es amenazada por la demanda indígena de autodeterminación.

En Nagaland, la mayor parte del territorio está bajo la Ley de Áreas de Disturbios y, por lo tanto, bajo la égida de la autoridad militar y todos los derechos civiles fundamentales están suspendidos. Las Fuerzas Armadas de la India en las áreas *naga* han maltratado, torturado y matado a personas, y en algunos oportunidades han arrasado pueblos enteros.

En Timor Oriental continúa la represión indonesia. En septiembre de 1995 estallaron disturbios y manifestaciones, y durante éstos se dijo que la policía ha disparado indiscriminadamente contra la muchedumbre, ha irrumpido en hogares y ha aterrorizado, en forma general, a la gente. Muchas personas fueron detenidas y existen informes de torturas.

Tibet sigue bajo la ocupación china y la persecución política y el control alcanzaron nuevos extremos en 1995-96. Monitores de los

derechos humanos mencionan más de 700 prisioneros políticos, siendo éste el número más alto desde el fin de la Revolución Cultural en los años 70. La tortura se continúa usando durante los interrogatorios y encarcelamientos, y cuatro jóvenes prisioneros políticos murieron en 1995 como resultado de la tortura.

En Chittagong Hill Tracts, Bangladesh, la influencia de las fuerzas armadas es persistente, y se siguen recibiendo detallados informes de abusos de los derechos humanos por las fuerzas de seguridad. Hay informes de ejecuciones sumarias por parte de las mismas, y la violencia y malos tratos contra los pueblos indígenas, en particular contra los estudiantes, han escalado.

En Birmania, las violaciones de los derechos humanos aumentan día a día en las áreas *karenni*. Todos los meses, cientos de aldeanos son enviados al frente, y son frecuentemente usados como escudos humanos para el avance de las tropas. Cientos de aldeas han sido relocalizadas.

Creciente reconocimiento

Aunque los problemas todavía son inmensos, el movimiento indígena se está fortaleciendo cada vez más y la situación de los pueblos indígenas ha mejorado notablemente en algunos países. En forma muy general, éste es principalmente el caso en las áreas del Ártico, en Sur y Centroamérica y en Australia.

En Canadá continúa el trabajo para establecer un nuevo territorio, Nunavut, en 1999 en el cual los inuit constituirán aproximadamente el 90 por ciento de la población.

En Australia, el año pasado ha sido un año de establecimiento de un orden del día indígena. Se publicaron tres informes importantes en 1995 por parte de organismos bajo control indígena con estatus oficial de asesores del gobierno nacional. Estos informes son una respuesta al compromiso del Primer Ministro de realizar un «paquete de justicia social indígena». Las recomendaciones son progresistas, y el proceso ha sido un ejemplo único de una minuciosa elaboración de la política nacional por pueblos indígenas. Sin embargo, aunque el nuevo gobierno incluye miembros que simpatizan con las cuestiones indígenas, el reconocimiento fundamental de la autodeterminación no ha penetrado Australia y la mayoría de sus círculos políticos.

En Guatemala, los pueblos indígenas han ganado cuatro importantes victorias: el Acuerdo sobre la Identidad y los Derechos de los

Pueblos indígenas, la primera victoria electoral *k'iche* en 500 años en la segunda ciudad del país, la elección de varios jefes indígenas al Congreso de la República, y la ratificación del Convenio 169 de la OIT por el Congreso guatemalteco. Estos son hitos de importancia en la historia de Guatemala donde las negociaciones de paz entre la guerrilla y el ejército por primera vez permite que los pueblos indígenas, como los *mayas*, hagan propuestas y participen como grupo. El número de organizaciones mayas continúa aumentando.

En Perú y Bolivia los pueblos indígenas han logrado igualmente ganar algunas importantes elecciones locales y obtuvieron un cargo de alcalde.

También los recientes acontecimientos en Sudáfrica podrían brindar una esperanza de optimismo para los pueblos indígenas en el contexto africano. La nueva Constitución se puede interpretar como progresista en lo que respeta a las cuestiones indígenas. Prevé, por ejemplo, el derecho a participar en una cultura de opción propia, y el derecho a tener jefes tradicionales como una medida para salvaguardar a las culturas.

El trabajo en las Naciones Unidas

Durante el año pasado continuó el decidido trabajo de los pueblos indígenas en la Comisión de la Naciones Unidas sobre Derechos Humanos y su Subcomisión y Grupo de Trabajo sobre Poblaciones Indígenas. Hay dos cuestiones fundamentales en la agenda, a saber: la propuesta de Declaración de los Derechos de los Pueblos indígenas y el establecimiento de un foro permanente para pueblos indígenas.

En el año anterior el trabajo se intensificó mucho con la formación del grupo de trabajo intersesional para tratar la propuesta de Declaración, que tuvo su primera reunión en noviembre de 1995. Se discutió la propuesta de Declaración y fue comentada por los gobiernos y pueblos indígenas, y los representantes indígenas fueron unánimes en mantener la propuesta de Declaración en su redacción presente. En la 52ª reunión de la Comisión de Derechos Humanos, los gobiernos simpatizantes, con el Gobierno Autónomo de Groenlandia como figura frontal, lograron obtener el consenso de la Comisión para crear un punto nuevo y específico en la agenda sobre el tema indígena. En los discursos dados bajo este punto, muchos pueblos indígenas y gobiernos mencionaron la posibilidad del establecimiento de un foro permanente. Uno de los grandes desafíos para los pueblos indígenas para el año próximo parecen ser

las discusiones entre ellos mismos acerca de sus anhelos y aspiraciones para la estructura, amplitud y mandato de tal foro.

Mujeres indígenas en movimiento

También en las cuestiones de género, los pueblos indígenas hicieron una contribución activa a la discusión política mundial durante el año pasado. Esta se vio más notoriamente durante la Conferencia Mundial de la ONU sobre la Mujer, en 1995 en Pequín. Las mujeres indígenas se habían organizado en la Red de Mujeres Indígenas con la participación de mujeres de todas partes del mundo y representando a más de cincuenta organizaciones diferentes. Durante los siete días de trabajo lograron elaborar la Declaración de Pequín de las Mujeres Indígenas, en la que ellas pusieron énfasis en sus áreas especiales de interés y criticaron el marco de la conferencia. La pobreza que sufren la mayoría de las mujeres indígenas es causada por las poderosas fuerzas económicas y políticas mundiales, declararon, y exigieron un reconocimiento más claro de esto por las Naciones Unidas. El trabajo en Pequín fue un comienzo prometededor de una nueva y más intensa cooperación entre las mujeres indígenas de diferentes continentes, y una de las esperanzas para el futuro cercano es que las redes de mujeres tengan la oportunidad de fortalecerse y desarrollar estrategias para aliviar los problemas comunes enfrentados por las mujeres indígenas del mundo.

Noticias breves sobre el trabajo de IWGIA durante el año pasado

Durante 1995 y 96 IWGIA ha continuado sus esfuerzos para extender su red de trabajo y cooperación con organizaciones indígenas de todo el mundo.

IWGIA ha continuado y aumentado su ya bien consolidado trabajo de apoyo en América Central y del Sur. En estas regiones IWGIA apoya una gran cantidad de proyectos llevados a cabo por organizaciones indígenas. Uno de éstos es un gran proyecto de demarcación y titulación de tierras en Perú que ha generado muchas experiencias útiles. Otro tipo de proyectos que IWGIA apoya son, por ejemplo, los de esfuerzo institucional y organizativo, y medios de difusión y comunicación.

1995 fue también el año en el cual IWGIA se propuso extender su red de contacto indígena en Asia. La conferencia de pueblos indígenas de Asia, que IWGIA organizó en Tailandia en cooperación con el Pacto de Pueblos Indígenas de Asia (AIPP) y la Asociación Educativa y Cultural de los Pueblos Montañeses de Tailandia

(IMPECT), ha sido un acontecimiento de importancia. El objetivo de la conferencia era proveer un foro para las organizaciones indígenas de toda Asia para juntarse, compartir experiencias y discutir perspectivas y estrategias futuras. Esta conferencia originó muchos contactos nuevos, e IWGIA ha comenzado a cooperar con varias organizaciones indígenas de Asia. Por ejemplo, brindando apoyo a proyectos. IWGIA está también muy satisfecha de que muchos de los indígenas que asistieron a la conferencia hayan contribuido a esta edición de *El Mundo Indígena*. Como consecuencia de la conferencia de Tailandia, AIPP y NEFEN (Federación de Nacionalidades de Nepal) prepararon una gran conferencia en Nepal en abril de 1996. No obstante, esta conferencia fue cancelada debido a intimidaciones de los gobiernos de la India y de Nepal. Un hecho desafortunado que muestra que las cuestiones indígenas son altamente explosivas en el contexto asiático.

IWGIA extiende gradualmente su red en Africa y 1996 ha sido el año en el cual la tragedia ogoni ha sido uno de los puntos más importantes del orden del día. La ejecución brutal del bien conocido líder ogoni Ken Saro-Wiwa y otros ocho activistas ogoni condujeron a una amplia condena mundial de la dictadura militar nigeriana. No obstante, se requiere una acción concreta e IWGIA se ha incorporado a los esfuerzos para ayudar a los ogoni en la continuación de su lucha. Además IWGIA da apoyo a proyectos de organizaciones indígenas de Africa oriental y meridional en las áreas de los esfuerzos organizativos y del trabajo con los derechos humanos.

Durante el año pasado IWGIA ha continuado también su participación en el trabajo de la ONU, y el centro de nuestros esfuerzos ha estado en el trabajo por la adopción de la propuesta de Declaración de los Derechos de los Pueblos Indígenas y el establecimiento de un foro permanente para pueblos indígenas. *El Mundo Indígena* incluye dos artículos que tratan estas cuestiones en la parte II.

En *El Mundo Indígena* IWGIA ha tratado de presentar nuevamente este año un panorama general de los acontecimientos más recientes en el mundo de los pueblos indígenas de todo el globo. Sin embargo, somos bien conscientes que este campo es enorme y que hay áreas que no hemos podido incluir.

Este año IWGIA ha tratado, en la medida de lo posible, de invitar a representantes indígenas a que contribuyan con el Mundo Indígena- una evolución que creemos importante y que nos gustaría continuar en los años venideros.

Esperamos que la información comprehensiva otorgada por *El Mundo Indígena* sobre la situación indígena mundial, tanto los retrocesos como los progresos, brinden una herramienta útil para la causa indígena. Esperamos que los pueblos indígenas puedan usar la documentación en sus propias luchas a nivel local, nacional e internacional. Y esperamos que otras ONG, investigadores, etc., puedan usar el material en su trabajo para apoyar la lucha de los pueblos indígenas.

Los hechos siempre están sujetos a interpretación. Hay más de una verdad y los enfoques seleccionados dependen de las percepciones e interpretaciones de los diversos autores. Los puntos de vista presentados aquí pueden ser aplaudidos por algunos y criticados por otros, pero en todos los casos presentan cuestiones sumamente importantes para la discusión y para la acción.

Colaboradores

IWGIA desearía expresar su caluroso agradecimiento a las siguientes personas por haber contribuido con *El Mundo Indígena*:

El Ártico

- *Jens Dahl*, antropólogo, ex director y actual miembro del Consejo Internacional IWGIA. Enseña en la Universidad de Copenhague, en el Departamento de Esquimología (*Alaska, Canadá*).
- *Marianne Lykke Thomsen* ha estado vinculada a IWGIA durante muchos años. Ha trabajado para la Conferencia Circumpolar Inuit y trabaja ahora para el Departamento de Relaciones Exteriores del Gobierno Autónomo de Groenlandia (*Groenlandia*).
- *Claus Oreskov*, antropólogo, miembro activo del Grupo Nacional danés de IWGIA durante muchos años. Organizó la conferencia de IWGIA celebrada en relación con la Cumbre Social de la ONU en Copenhague (*Saami*).
- *Olga Murashko*, antropóloga, miembro activo del Grupo Nacional ruso de IWGIA (*Rusia*).
- *Mette Uldall Jensen*, miembro del Grupo Nacional danés de IWGIA (*El tema de las pieles*).

América del Norte

- *Andreas Knudsen*, estudiante de idiomas comerciales (inglés y ruso) y traductor «freelance». Ha sido miembro activo del Grupo Nacional danés de IWGIA durante 4 años y trabaja con los casos norteamericanos (*blackfeet, shoshone occidental, Leonard Peltier*).
- *Bernhard Bös*, lic. en Etnografía en la Universidad J.W. Goethe de Frankfurt Am Main. Activo en el Grupo Nacional danés de IWGIA (*lubicon cree, apache*).
- *Georg Henriksen*, antropólogo, profesor del Instituto de Antropología Social, Universidad de Bergen, Noruega. Presidente del Consejo Internacional de IWGIA. Ha trabajado mucho con los innu (*innu*).

México, América Central y del Sur

Esta sección ha sido compilada y corregida por Alejandro Paredada, coordinador de proyectos de IWGIA y redactor responsable de «Asuntos Indígenas».

- *Ronald B. Nigh*, investigador del Centro de Investigaciones y Estudios Superiores en Antropología Social-CIESAS (*México*).
- *Marie-Odile Marion*, antropóloga francesa, investigadora de la Escuela Nacional de Antropología e Historia de la ciudad de México (*México*).
- *Estheiman Amaya Solano*, periodista, a cargo del periódico maya, El Regional (*Guatemala*).
- *Andrew Gray*, antropólogo y miembro del Concejo Directivo de IWGIA (*Nicaragua*).
- *Atencio López*, abogado indígena kuna, director de la Asesoría Legal de los Pueblos Indígenas de Panamá y Secretario de Relaciones Internacionales de los naguana (*Panamá*).
- *Rodrigo de la Cruz*, dirigente indígena, desempeña actualmente sus funciones en las oficinas centrales de COICA, Quito (*Ecuador*).
- *Pedro García Hierro*, abogado, ha sido asesor de organizaciones indígenas de Perú durante 25 años. Actualmente es miembro de la ONG Racimos de Ungurahui (*Perú*).

- *Annie Oehlerich de Zurita*, antropóloga danesa que trabaja en Santa Cruz, Bolivia, como voluntaria en el centro de asesoramiento legal (CEJIS) (*Bolivia*).
- *Tito Lahaye*, investigador paraguayo, director de la ONG Tierra-viva (*Paraguay*).
- *Chris Wallis*, antropólogo de larga experiencia en Perú, Paraguay y Argentina. Actualmente vive con las comunidades wichi en la provincia de Salta (*Argentina*).
- *Aucan Huillcaman*, indígena mapuche y líder de la organización, el Consejo de Todas las Tierras (*Chile*).

El Pacífico y Australia

- *Peter Jull*, asesor de organizaciones de aborígenes e isleños del Estrecho Torres de Australia en temas políticos, constitucionales, y cuestiones internacionales. Trabajó previamente para organizaciones inuit de Canadá (*Australia*).

Asia Oriental

- *Anders Højmark Andersen*, estudiante de posgrado de Antropología Social. Encargado de información en el Comité Danés de Apoyo al Tibet. Realizó trabajo de campo en Tibet en 1993 y 94 (*Tibet*).
- *Harald Bøckman*, sinólogo, Miembro Investigador del Instituto Internacional de Investigación sobre la Paz en Oslo, Noruega. Sus campos principales de investigación son el surgimiento histórico de China y la relación entre China y sus vecinos en una perspectiva histórica (*China*).
- *Aku Sawai*, Congreso Nacional Ainu (*Japón*).

Asia Suroriental

- *Hla Phay*, veterano del movimiento por los derechos democrático en Birmania. Ha sido encarcelado por el Gobierno Militar durante diez años. Ha desarrollado un centro de investigación y de derechos humanos y es miembro del Concejo Ejecutivo de AIPP (*Birmania*).
- *Christian Erni*, dr. en Antropología Social, ayudante científico y profesor del Departamento de Etnología, Universidad de Zurich, y

miembro fundador del Grupo Nacional suizo de IWGIA. Ha realizado trabajo de campo en las Filipinas y ha viajado extensamente en Asia Suroriental (*Tailandia*).

- *Jørgen Gammelgård*, lic. en Geografía e Historia. Ha sido profesor y director de escuela secundaria. Ha trabajado en Paquistán, Birmania, Tailandia, India y Vietnam para diversos organismos de la ONU. De 1992-95 fue Director de Programas de la Unión Europea en Vietnam (*Vietnam*).
- *Jannie Lasimbang*, indígena kadazan-dusun de Sabah. Conocida como pionera del trabajo organizativo comunitario y coordinadora de los Miembros de Organizaciones Comunitarias (PACOS). Como miembro del Concejo Ejecutivo del Pacto de los Pueblos Indígenas de Asia ha contribuido activamente con la red regional de pueblos indígenas de Asia (*Malaysia*).
- *Stepanus Djuweng*, indígena simpang dayak de Kalimantan occidental. Es Secretario General del Instituto de Investigación y Desarrollo Dayakológico (IDRD), coordinador del Programa de Coordinación de Pueblos Indígenas de Borneo, y coordinador de Dayak Dynamic Network, una red de trabajo de ONG indígenas de todo Kalimantan (*Indonesia*).
- *Torben Retbøll*, lic. en Historia y Latín, profesor de Aarhus Katedralskole. Ha escrito y publicado varios libros sobre medios de comunicación de masas y asuntos internacionales, incluyendo dos documentos IWGIA. Produce un programa radial semanal, titulado «El mundo a nuestro alrededor», y escribe regularmente para «Dagbladet Arbejderen». Prepara un nuevo documento IWGIA sobre Timor Oriental (*Timor Oriental*).
- *Rene Agbayani*, estudiante de Antropología, escritor «free-lance» e investigador. Trabaja como asesor de comunidades indígenas, organizaciones populares, ONG, unidades de gobierno local y agencias de desarrollo internacionales en las Filipinas (*Las Filipinas*).
- *Luingam Luithui*, investigador académico y activista de los derechos humanos, es un tangkhul naga de Ukhrul, Manipur, India. Es miembro fundador del Movimiento por los Derechos Humanos del Pueblo Naga (NPMHR) y ha participado activamente en el trabajo por los derechos humanos desde 1974. Es actualmente el Secretario General del Pacto de Pueblos Indígenas de Asia (*Nagaland*).

Asia del Sur

- *Ayhash Kaushal*, ex miembro docente de la Academia de Administración Lal Bahadur Shastri (LBSNAA), y ganador del premio Padma Shree otorgado por el Presidente de la India por la protección del medio ambiente. Trabaja con los pueblos indígenas en las áreas montañosas del norte de la India. Es actualmente el Presidente de Rural Litigation & Entitlement Kendra (RLEK), Dehra Dun, que trabaja por el fortalecimiento y capacitación de los pueblos indígenas van gujjar y jaunsari (*Uttar Pradesh*).
- *Ratmaker Bhengra*, abogado y miembro de la Organización por los Derechos Humanos de Jharkandis que trabaja por la autonomía dentro del estado indio. Trabaja activamente en apoyo de la causa de los pueblos indígenas de la India, es asesor legal de la organización de derechos humanos Joha-Ranchi y es miembro activo del movimiento contra el reasentamiento forzado (*Jharkhand*).
- *C.R. Bijoy*, activista de los derechos humanos. Durante los últimos quince años ha estado comprometido o asociado con cuestiones y organizaciones indígenas en India y escribe acerca de éstos y otros temas asociados (*Kerala, Tamilnadu, Karnataka*).
- *Parshuram Tamang*, es Secretario General de la Federación de Nacionalidades de Nepal (NEFEN). Ha trabajado durante más de veinte años para promover la causa de pueblos indígenas en Nepal como crítico social y activista. Ha escrito libros sobre los pueblos tamang y janajati y trabaja como profesor en la Universidad Tribhuran, Nepal (*Nepal*).
- *Red de Pueblos Jumma (JUPNET)*, una organización establecida y administrada por indígenas jumma basada en varios países de Europa y otras partes. JUPNET busca promover los derechos de los indígenas jumma mediante el diálogo, la negociación y otros medios pacíficos (*Chittagong Hill Tracts*).

Africa

- *Gunnvor Berge*, antropóloga social, Centro para el Desarrollo y el Medio Ambiente, Universidad de Oslo, Noruega (*Mali, Níger*).
- *Ana Hege Simonsen*, periodista y estudiante y lic. en Antropología Social, Universidad de Oslo, Noruega. Ha viajado extensa-

mente en el Africa Occidental francófona desde 1989 (*Nigeria, Camerún*).

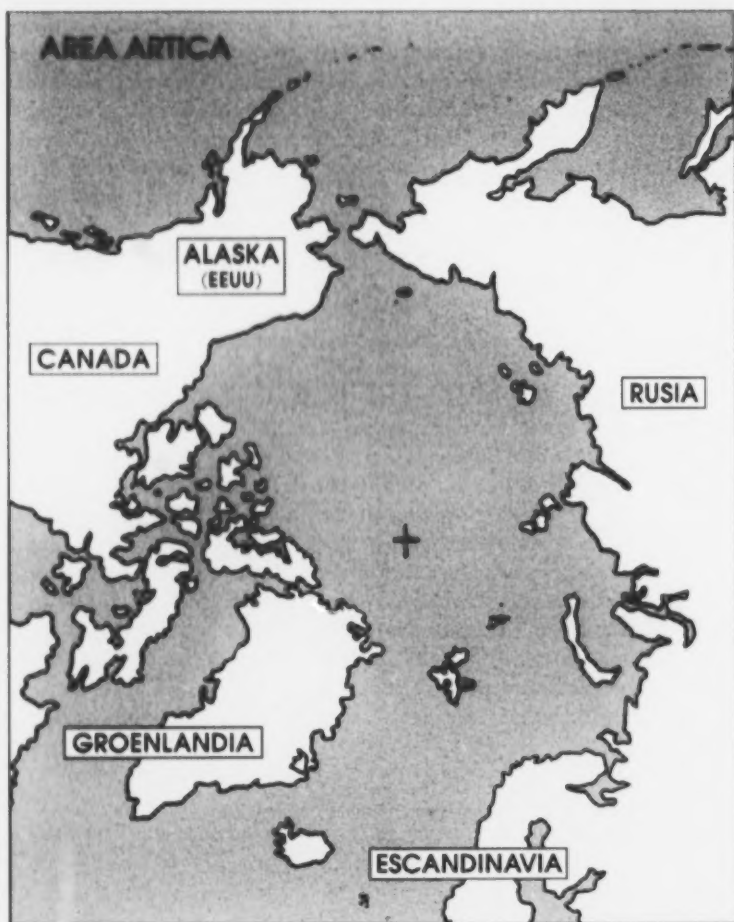
- *Charles Lane*, consultante independiente especialista en desarrollo pastoral, manejo de recursos naturales, conservación comunitaria, trabaja en la investigación sobre conflictos, participación y planeamiento. Trabaja estrechamente con varias organizaciones de derechos humanos y funciona como asesor en derechos territoriales (*Kenya, Tanzania*).
- *Judy Knight*, antropóloga, está terminando actualmente una investigación sobre los batwa de Ruanda y sus organizaciones indígenas. Vive en Gran Bretaña donde trabaja en colaboración con el Movimiento por los Bosques Tropicales. También ha trabajado con los twa de Uganda y Burundi, así como otras comunidades cazadoras de Uganda (*Ruanda, Burundi*).
- *John Hardbattle*, kwe y líder de la organización indígena kwe Pueblos Originarios del Kalahari. Ha realizado un trabajo pionero contribuyendo al establecimiento de esta organización indígena y al contacto internacional con otros pueblos indígenas. Es además el Presidente de Ghanzi Craft, un centro para la mejora de la situación económica de los kwe (*Botswana*).
- *Kxao Moses# Oma*, nacido en Nyae Nyae, director de la Cooperativa de Agricultores de Nyae Nyae (NNFC) durante seis años, y *Murray Dawson-Smith*, empleado por NNFC durante los últimos 21 meses, brinda apoyo institucional a NNFC (*bosquimanos, Namibia*).
- *Tomás Tvedt*, lic. en Geografía, Universidad de Bergen, Noruega. Ha realizado trabajo de campo entre los himba en 1993 y escribió su tesis de graduación sobre el «Impacto de la propuesta Planta Hidroeléctrica de Epupa en la sociedad himba» (*himba, Namibia*).
- *L.P.Vorster*, antropólogo, profesor de la Universidad de Sudáfrica donde enseña derecho consuetudinario africano. Presidente del Fondo Fiduciario !Xu y Khwe (*Sudáfrica*).

Parte II

- *Andrew Gray*, antropólogo, miembro del Concejo Internacional de IWGIA.
- *Inger Sjørlev*, antropóloga, directora del Secretariado Internacional de IWGIA.

PARTE I

EL MUNDO INDÍGENA



EL ARTICHO

La 7ª reunión general de la Conferencia Circumpolar Inuit (ICC), que se realiza cada tres años, fue celebrada en Nome, Alaska, donde los delegados *inuit* de Rusia, Alaska (EE.UU.), Canadá y Groenlandia se reunieron durante cinco días en el mes de julio. La ICC es una ONG indígena con estatuto consultivo dentro del marco de ECOSOC. Se fundó en 1977 con la participación de *inuit* de Groenlandia, Canadá y Alaska. Durante la reunión de este año, los *inuit* de Rusia se convirtieron finalmente en miembros plenos. Además de los delegados ordinarios (18 de cada una de las cuatro regiones) había numerosos artistas de las regiones del Ártico así como personalidades de importancia y observadores.

Entre las cuestiones discutidas (ver «Asuntos Indígenas», IWGIA, 3/1995) se encontraban, entre otras, la soberanía, la subsistencia, las condiciones sociales y sanitarias, la degradación medioambiental, las relaciones internacionales. Se sugirieron y adoptaron varias resoluciones, entre otras, una resolución en apoyo de la creación del Concejo Ártico y en apoyo del derecho inherente de los *inuit* a cazar ballenas de Groenlandia. La ICC también confirmó su apoyo a la Propuesta de Declaración Universal de los Derechos de los Pueblos Indígenas y al establecimiento de un Foro Permanente de la ONU.

En la asamblea general de la ICC de 1992 se había elegido presidente a Eileen McLean (Alaska), pero debido a otras responsabilidades ella renunció pronto al cargo, el cual fue asumido por Caleb Pungowiyi (Alaska). En la 7ª asamblea general de la ICC se eligió como presidente por los próximos tres años a Rosemary Kuptana (Canadá).

1995 trajo nuevas esperanzas en lo relativo al establecimiento de un Concejo Ártico, integrado por los gobiernos del Ártico y las tres organizaciones regionales indígenas, el Concejo Saami, la Conferencia Circumpolar Inuit y la Asociación de Minorías Indígenas del Norte Ruso como observadores permanentes. Se espera tomar la decisión final en julio de 1996 en una reunión en Canadá.

En 1995 los asuntos relativos al reasentamiento jugaron un papel prominente en Groenlandia y en el norte canadiense. Todos los casos planteados se remontan a la década de 1950 cuando, durante la Guerra Fría, se instalaron bases e instalaciones del ejército por todo el Ártico, y cuando la cuestión de la soberanía llegó a ser fundamental. Estos casos (a ser tratados) han revelado cuán mal los derechos individuales y colectivos de los pueblos indígenas del Ártico han sido protegido por los estados. Y para humillar aún más a los grupos indígenas afectados, al tratar este asunto, el estado canadiense y el dinamarqués se han mostrado más interesados acerca de los antecedentes de otros pueblos indígenas que han sido reasentados que por restaurar la justicia. Ninguno de los dos gobiernos ha tenido el valor de pedir disculpas, y así curar las heridas de aquellos tratados injustamente.

En 1991, la Unión Europea decidió prohibir la importación de ciertos productos peleteros si provienen de un país donde todavía se usan trampas que aprisionan las patas de los animales, o donde los métodos tramperos no cumplen con las normas internacionales. La implementación internacional de la prohibición debía comenzar en 1995, pero ahora se pospuso para 1997. La razón es que plantea problemas de implementación a causa de la falta de base legal. Además Canadá, EE.UU. y Rusia han amenazado con presentar procedimientos legales contra la UE a la Organización Mundial del Comercio (WTO) por violar reglas comerciales de uso común. Los pueblos indígenas de Canadá, Alaska y Rusia dependen de la caza con trampas y temen que la prohibición sea una amenaza para su existencia. Por otro lado la UE experimenta un intenso trabajo de «lobby» por parte de las organizaciones que trabajan por la protección de los animales, las cuales tratan de lograr una prohibición de todas las trampas, y si es posible de la utilización de todos los animales salvajes.

El trabajo en la Organización Internacional de Normativización (ISO) sobre la reglamentación de las trampas se ha suspendido en septiembre de 1995. Al mismo tiempo la UE, Canadá, EE.UU. y Rusia han establecido un grupo de trabajo gubernamental para elaborar normas internacionales de métodos humanos de caza con trampas.

La UE ha presentado también una propuesta que se llama «la excepción indígena.» La excepción dice que la prohibición no se aplica a pieles y productos peleteros de animales capturados por pueblos indígenas. Inuit Tapirissat de Canadá (ITC) y la Asamblea

de Naciones Originarias, Canadá, han señalado que «la excepción indígena» no beneficiará a los pueblos indígenas. La excepción implica la necesidad de un sistema de catalogación complicado que puede ser sumamente difícil de llevar a cabo. Sin embargo, el problema más grande es que la prohibición destruirá los canales de distribución de pieles. Sin canales de distribución la excepción no tiene ningún significado. Aunque la UE quiere dar la impresión de que los intereses de los pueblos indígenas se tienen en cuenta, la prohibición, con o sin excepción, pondrá en peligro el comercio peletero y así la existencia futura de los pueblos indígenas del Ártico.

Aproximadamente 300.000 inuit e *indios* dependen directa o indirectamente del comercio peletero, el cual es una parte indispensable e inseparable de su economía de subsistencia. Además, las actividades tramperas son de gran importancia para su vida social y cultural. Tanto los indígenas como los no-indígenas temen que la prohibición cause una seria decadencia social.

ITC lo ha expresado de esta manera:

«El efecto de la prohibición de pieles de foca [de 1983] sobre la economía de subsistencia inuit puede compararse con quitar tres piernas de una silla... la propuesta actual de prohibir otras importaciones de pieles tiene el potencial de quitar la pierna restante.»

El 22 de febrero de 1996 Dinamarca finalmente ratificó el Convenio 169 de la OIT. De los restantes países del Ártico, sólo Noruega ha ratificado este convenio que muchos pueblos indígenas consideran como muy importante para garantizar sus derechos territoriales.

ALASKA

Los potenciales petroleros de la parte nororiental de Alaska han escindido a los pueblos indígenas de ese estado en dos partes. La apertura del Refugio Nacional de la Fauna Ártica (ANWR) se ha debatido durante años, pero esta discusión tuvo un viraje brusco cuando la Federación de Nativos de Alaska (AFN), en su reunión anual de octubre, adoptó una resolución en apoyo de realizar perforaciones petroleras dentro del refugio.

La única aldea dentro del refugio, Kaktovik, ha apoyado la perforación así como también la corporación Nativa regional, la

cual dispone de derechos al subsuelo en algunas secciones del refugio. Otra corporación regional, Cook Inlet Inc., que posee compañías que trabajan al servicio de los campos petroleros interesadas en la explotación del refugio, ha demostrado también un fuerte apoyo. El pueblo *gwich'in* del interior, el cual depende de la caza del caribú, está decididamente en contra de la perforación. Los caribús migran por las tierras de los *gwich'in* en sus rutas a los campos dónde paren sus crías dentro del refugio de la fauna. Los *gwich'in* temen que las actividades industriales, incluso de una porción pequeña del refugio, amenazarán los rebaños de caribú Porcupine, los cuales constituyen la base de su subsistencia y de su cultura.

Los aldeanos *inuit* (*inupiat*) de Kaktovik quienes, como los *gwich'in*, dependen del caribú para su subsistencia, han apoyado la perforación dentro del refugio considerando que una exigencia ha sido cumplida. Esta condición es que la aldea de aproximadamente 250 individuos, estará a la cabeza de una estructura reglamentaria que asegure que la perforación se llevará adelante seguramente y de conformidad con el conocimiento tradicional *inupiat* de los recursos y las condiciones locales, que datan de hace miles de años. El refugio es su tierra y el área está salpicada de cementerios, campamentos y otros importantes hitos de la cultura *inupiat*. Al haber presenciado a equipos investigadores molestar a la fauna, se muestran escépticos acerca de cómo las agencias del gobierno supervisarán el desarrollo industrial de forma satisfactoria.

La decisión de la Federación de Nativos de Alaska de tomar partido en esta cuestión fundamental significa un importante abandono de la neutralidad que usualmente caracteriza los conflictos inter-regionales entre grupos indígenas. El apoyo fue concedido a partir de una solicitud de los diputados y del gobernador de Alaska, Tony Knowles, para que levantaran la prohibición, de larga data, de perforar dentro del refugio.

Aunque los pueblos indígenas de Alaska tienen derechos a algunas tierras (11%) tradicionalmente poseídas y ocupadas por ellos, sus derechos de caza y pesca son continuamente usurpados. Mucho indígenas han perdido derechos pesqueros comerciales, los cuales se han visto forzados a vender cuando debían impuestos o en el caso de enfrentar necesidades de diversa índole, y hoy la mayoría de estos permisos están en manos de personas no-indígenas, muchas de las cuales se han trasladado al norte para dedicarse a la rentable pesca del salmón.

Los muchos ataques contra las actividades indígenas de subsistencia constituyen también serias amenazas. En 1995, las dos mayores organizaciones indígenas estatales, la Federación de Nativos de Alaska y el Concejo Inter-Tribal de Alaska se unieron, y exigieron la restauración de los derechos aborígenes de caza y pesca. La Ley de Acuerdo de las Reivindicaciones Nativas de Alaska de 1971 extinguió los títulos aborígenes a la tierra y los derechos a la caza y a la pesca, dejando a los indígenas de Alaska en una situación vulnerable frente a los pescadores deportivos y otros que tratan de limitar sus derechos.

Otra cuestión pendiente en Alaska es la de la soberanía. El gobierno federal reconoce más de 200 tribus indígenas en Alaska y se asignan fondos federales a los concejos tribales para diversos servicios sociales y otros programas. No obstante, estas tribus no son reconocidas por el Estado, el cual opera a través de los gobiernos municipales. La mayoría de los indígenas tienen por lo tanto un concejo tribal elegido sólo por indígenas y un concejo municipal elegido por todos los ciudadanos del pueblo. Algunos pueblos han disuelto sus concejos municipales, en forma legal o ilegal, y devolvieron el control de los asuntos municipales al concejo tribal. Siete aldeas de la región del delta del Yukón-Kuskokwim han procedido de esta forma, pero las autoridades han respondido limitando significativamente los poderes del concejo tribal. Al carecer de impuestos locales los concejos tribales usualmente recurren al «bingo» y a la lotería como formas de contribución impositiva que aportan ingresos de ninguna manera insignificantes.

CANADÁ

En Canadá dos asuntos, ambos relacionados con las primeras décadas posteriores a la Segunda Guerra Mundial, han ocupado las mentes de muchos inuit del Ártico canadiense. En ambos casos, sobrevivientes inuit han pedido que se les ofrezca una disculpa por las infracciones cometidas contra ellos. En un caso han tenido éxito, pero no en el otro.

Como muchos otros niños indígenas del Ártico, los niños y niñas inuit tuvieron que pasar años en las escuelas de internado, lejos de sus comunidades de origen en las décadas posteriores a la Segunda Guerra Mundial. Muchos de estos internados eran administrados por diversas comunidades cristianas, y hace pocos años empezaron a aparecer en la prensa quejas sobre el abuso de los niños. Al

principio los acusados prestaron poca atención a estas quejas, no se tomó en serio a los ex estudiantes y no se les dio ninguna disculpa. Pero gradualmente se presentaron tantas pruebas que la institución más severamente acusada tuvo que ceder. Ésto sucedió a comienzos de 1996 cuando el obispo católico, Reynald Rouleau, pidió disculpas a ex estudiantes de la escuela de internado federal Sir Joseph Bernier, por el abuso sexual, físico y emocional que sufrieron a manos de miembros de la iglesia hace más de 30 años. El Obispo pidió disculpa con estas palabras: *«yo reconozco y pido disculpas por el daño que experimentaron de niños en la escuela y la residencia, y por los efectos que estas heridas han tenido sobre sus vidas y las vidas de sus familias y amigos.»* Aunque todas las personas responsables están ahora muertas, los ex estudiantes han esperado esta disculpa incondicional durante años, como punto de partida para comenzar la curación.

Mientras que los ex estudiantes de la escuela de internado de Chesterfield Inlet recibieron una disculpa inequívoca, no sucedió lo mismo con las familias que, a comienzos de los años 50, fueron trasladadas de Quebec y la isla de Baffin a las islas del Ártico Superior. Diecisiete familias inuit fueron trasladadas de las comunidades de Inukjuak y de la Ensenada Pond a la Bahía Resolute y al Fiordo Grise, en el Ártico Superior. Los inuit han afirmado que el reasentamiento no se hizo sólo para ayudar a las familias sumamente necesitadas, sino fundamentalmente para afirmar la soberanía canadiense de las Islas del Ártico. Los inuit han documentado que las familias fueron relocalizadas sin su consentimiento pleno e informado, que las promesas hechas a las mismas fueron violadas por los funcionarios del gobierno y algunos inuit fueron trasladados bajo condiciones de severa presión y en mal estado de salud.

Los hijos de los adultos que fueron reasentados han crecido y ahora insisten en contar su versión de la historia. Durante años han luchado contra el gobierno federal canadiense por una compensación y por una disculpa. En marzo de 1996 recibieron finalmente una compensación, pero ninguna disculpa. Los desterrados recibirán una declaración de reconciliación, reconociendo su dolor y sufrimiento y una compensación de 10 millones de dólares canadienses.

La compensación de 10 millones de dólares canadienses es el resultado de un acuerdo realizado entre el gobierno y los inuit. Éste es un acuerdo de reconciliación que reconoce «las penurias, el sufrimiento y la pérdida» en los años iniciales del reasentamiento a causa de la mala planificación e implementación del gobierno. Pero

se dice también que los funcionarios del gobierno «actuaron con intenciones honorables en la creencia de que era en beneficio de los mejores intereses de los inuit en ese entonces.» Los inuit han afirmado que fueron trasladados al norte y arrojados en las costas desoladas del norte sin viviendas. Dicen que tenían que recoger la basura para comer en el vertedero de una base del ejército y se vieron forzados a adaptarse a la oscuridad del invierno, a la cual no estaban acostumbrados. En lo que respecta al papel jugado por los inuit en la afirmación de la soberanía canadiense en las Islas del Ártico, la declaración de reconciliación sólo dice que «los reasentados contribuyeron a la presencia canadiense en el Ártico Superior.»

Los inuit, muchos de los cuales están sentidos por la declaración acordada, dicen que aceptan el compromiso porque quieren solucionar el asunto antes de que sus mayores mueran. 31 de los 86 desterrados originales han muerto ya.

El paquete indemnizatorio incluye un fondo fiduciario de 8 millones de dólares canadienses para las familias y 2 millones en efectivo para los 55 desterrados que todavía viven y los descendientes de aquellos que murieron.

Sin embargo, todavía existe amargura en lo referente a la disculpa, y el jefe inuit John Amagoalik, quien ha liderado la lucha por la reivindicación dice, que «la ausencia de una disculpa es como una bofetada para nosotros.»

Los inuit todavía exigen una disculpa. Dice John Amagoalik:

«pienso que había un acuerdo bastante unánime en que la ausencia de una disculpa es una verdadera bofetada para nosotros y todo el mundo estuvo de acuerdo en que quieren continuar exigiendo una disculpa.»

Nunavut y el referéndum de Quebec

Continúan los preparativos para establecer un nuevo territorio, Nunavut, en 1999, en el cual los inuit constituirán aproximadamente el 90% de la población. Una Comisión de Implementación de Nunavut (NIC) continúa la preparación y como paso importante, se ha tomado una decisión acerca de la ubicación de la capital de Nunavut. Como resultado de un referéndum en todo Nunavut, se eligió a Iqaluit como la nueva capital.

Un trabajo de discusión publicado por la NIC sugirió que un sistema de igualdad de género podría ser introducido en ocasión del establecimiento del parlamento de Nunavut. La propuesta plantea el establecimiento de distritos electorales que estén representados

por dos miembros, un hombre y una mujer. Hasta ahora, no se ha tomado ninguna decisión sobre esta propuesta.

En abril de 1995 los residentes de Nunavut votaron abrumadoramente no permitir la venta de tierras municipales. El Artículo 14 del Acuerdo Final de Nunavut estipula que entre uno y dos años después de la ratificación del acuerdo de reivindicación de tierras (1993) se debe celebrar un referéndum para determinar si se pueden permitir a las comunidades vender tierras municipales. Todos los residentes, inuit y no-inuit, tomaron parte en el referéndum, cuyo resultado fue de una oposición firme en todas las comunidades de Nunavut contra la venta de tierras.

En 1994, un grupo pequeño de cazadores inuit de la comunidad de Igloodik capturó una ballena de Groenlandia. Ésta fue la primera vez en décadas que se capturó en esta parte del Ártico una ballena de Groenlandia, y fue inmediatamente juzgado como ilegal por las autoridades. Los tres cazadores Simeoni Qaunaq, Levi Qaunaq y Esa Kripanik mataron la ballena para cumplir los deseos de un respetado anciano quien dijo que quería saborear *mattak* de ballena de Groenlandia (piel de la ballena, una delicadeza del Ártico) antes de morir. Entretanto, el anciano ha muerto, pero el procedimiento judicial contra los tres cazadores está fijado para junio de 1996.

El referéndum de Quebec sobre el futuro de esa provincia tuvo como resultado la oposición a la independencia o soberanía. Aunque el gobierno provincial quería separarse de Canadá, no quería permitir que los pueblos indígenas del norte de Quebec se expresaran sobre su propio futuro. Los indígenas inuit y *cree* de esa provincia organizaron por lo tanto su referéndum propio, antes de la votación provincial. El 95% de los 8.000 inuit de Quebec y el 96% de los 5.000 *cree* de Quebec votaron contra un Quebec soberano. Al hacer ésto, los grupos indígenas no sólo se negaron a un Quebec independiente, sino que también indicaron decididamente que quieren permanecer dentro de Canadá. La votación además dio nuevos ímpetus a la demanda indígena por autonomía.

GROENLANDIA

Explotación del petróleo y recursos minerales

En 1995 el Gobierno Autónomo de Groenlandia estableció un Departamento de Recursos Minerales en Nuuk, cuyo personal consiste de geólogos, abogados y economistas, para fortalecer la

influencia de Groenlandia en la administración de los recursos minerales. El Departamento de Recursos Minerales es el resultado de un acuerdo entre los gobiernos de Dinamarca y Groenlandia para el período 1995-97 con respecto a un gradual aumento de la capacitación en Groenlandia, en cooperación estrecha con la Administración de Recursos Minerales para Groenlandia, el Instituto Geológico de Dinamarca y Groenlandia (GEUS) y el Departamento de Energía de Dinamarca, todos bajo la égida del ministro dinamarqués de Medio Ambiente y Energía.

El Departamento de Recursos Minerales, que se inauguró oficialmente el 11 de abril de 1996 por el Presidente del Comité Conjunto (dano-groenlandés) para Recursos Minerales en Groenlandia, el primer ministro de Groenlandia, Lars Emil Johansen, ahora tiene la capacidad de encarar la tarea fundamental de transformar el potencial mineral y de gas de Groenlandia en una industria de importancia para la economía nacional, la cual es una meta declarada del Gobierno Autónomo de Groenlandia.

Para atraer a las compañías petroleras y mineras se inició una estrategia nueva, que comprende cambios en las condiciones relativas a las concesiones y las cargas impositivas, combinados con campañas internacionales de información, a principios de 1990, seguido por una enmienda reciente de la Ley de Minerales por el Parlamento dinamarqués, que permite la prolongación de los permisos de exploración y explotación para las compañías que operan en Groenlandia, tal como lo solicitó el Parlamento de Groenlandia.

El Comité Conjunto para Recursos Minerales de Groenlandia está actualmente negociando 2 propuestas de exploración de gas y petróleo fuera de la costa en Fylla Banke, en el centro de la costa occidental de Groenlandia, donde estudios sísmicos han revelado estructuras geológicas que indican la presencia de cantidades potencialmente muy grandes de gas.

Durante la sesión Primavera del Parlamento de Groenlandia, se discutieron dos importantes cuestiones de gran interés para el Gobierno Autónomo de Groenlandia respecto al desarrollo de la industria petrolera y de explotación de recursos minerales. A saber, la protección del ambiente y el empleo.

El primer ministro subrayó en su presentación de las actividades presentes y futuras de exploración y explotación petrolera y mineral, que la caza y la pesca continúan siendo el sustento primario en Groenlandia y se protegerán adecuadamente por medio de una estricta protección ambiental y actividades de supervisión.

El Instituto de Investigación Medioambiental danés realiza extensos estudios ambientales y programas de supervisión y están también en marcha planes para extender la capacidad y estado de preparación del Departamento para el Medio Ambiente del Gobierno Autónomo.

Con respecto al empleo local en la industria petrolera y minera, el Departamento Mineral, en cooperación con el Ministerio de Educación, está realizando actualmente cursos de prospección y perforación y piensa ofrecer instrucción adicional junto con instituciones similares del Canadá.

Thule

En 1995 las circunstancias acerca del establecimiento y la presencia de la base militar de la Fuerza Aérea de los EE.UU. en Pituffik (la Base Aérea de Thule) atrajo otra vez una atención considerable de los medios de comunicación y de la opinión pública en Groenlandia, Dinamarca y en el extranjero.

Primeramente, porque el Ministerio dinamarqués de Justicia emitió un informe de la comisión de reasentamiento de las 27 familias *inughuit* de la comunidad de Uummannaq (Dundas) a Qaanaaq en 1953, para brindar espacio adicional a las instalaciones de la Fuerza Aérea de los EE.UU. en Pituffik, establecidas en base al acuerdo dano-estadounidense de defensa de 1951 y que ya ocupaban una considerable base territorial en el territorio *inughuit*. Contrario a la opinión de la población local, el Gobierno Autónomo de Groenlandia y expertos independientes, el Informe, que había estado en marcha desde 1987, concluyó que se debe caracterizar la reagrupación como voluntaria en lugar de forzada.

Ya en 1960, el Concejo de Cazadores de Qaanaaq exigió compensación por su pérdida económica causada por su reasentamiento, decidido por el entonces Ministerio de Groenlandia en Dinamarca. Desgraciadamente, todos los archivos relacionados a la demanda fueron trasladados y se perdieron, y nunca se recobraron y los *inughuit* nunca recibieron ninguna compensación. Así, en 1985, la Municipalidad de Avanersuaq (Thule) reiteró la demanda al Ministerio de Groenlandia, mientras que el ex primer ministro de Groenlandia, Jonathan Motzfeldt, en un intento de remediar la situación, logró que el gobierno de los EE.UU. patrocinara una fundación para la población local, aunque era principalmente para la protección y la limpieza del medio ambiente.

Segundo, porque el gobierno danés el 29 de junio de 1995 hizo público que un ex primer ministro de Dinamarca en 1957, secretamente y en contra de la política oficial danesa referente a armas nucleares, había aceptado el emplazamiento de armas nucleares de los EE.UU. en Groenlandia. El gobierno danés más tarde anunció que los EE.UU. tenían efectivamente bombas nucleares almacenadas en Pituffik.

Desde estos primeros anuncios, investigadores, políticos y periodistas han juntado abundantes pruebas mediante numerosos documentos y artículos, etc., que demuestran el mal manejo del «Caso Thule» por el gobierno danés.

En tercer lugar, porque el Gobierno danés, el 3 de julio de 1995, anunció su decisión de realizar una vista pública sobre los aspectos de salud resultantes de la caída en el hielo, de un avión bombardero B 52 que portaba armas nucleares, fuera de Pituffik. La vista pública fue provocada por la serie de revelaciones comprometedoras sobre el engaño de los gobiernos daneses a su política nuclear oficial que sorprendieron a los políticos y la opinión pública de Dinamarca y Groenlandia. Los «trabajadores de Thule» (daneses que trabajaban en la base del ejército) y los cazadores inughuit que participaron en las operaciones de limpieza han culpado a la caída y a la subsecuente operación de limpieza por los muchos problemas de salud que han sufrido y han exigido compensación del estado danés.

Mientras el comité de la vista pública no halló evidencia suficiente de una conexión entre los muchos problemas de salud sufridos por los trabajadores de Thule y los cazadores inughuit y su participación en las operaciones de limpieza, el gobierno danés decidió indemnizar a todos aquellos que puedan documentar su presencia y participación o a los familiares sobrevivientes con la cantidad de 50.000 coronas danesas (aprox. US\$9.000).

El establecimiento y la presencia de la base aérea militar de los EE.UU. en Pituffik continúa siendo una cuestión sensible. El gobierno danés ha negado extender una disculpa formal a los inughuit y ha rechazado hasta ahora la demanda realizada conjuntamente por el Gobierno Autónomo de Groenlandia y la Municipalidad de Avanersuaq para establecer una pista de aterrizaje civil en Qaanaaq para independizar a la población local de la base aérea militar en lo que respecta al tránsito aéreo. Las muchas restricciones y la capacidad limitada para civiles en el tránsito aéreo de y hacia Qaanaaq y

otras comunidades del norte de Groenlandia afectan al transporte local y las posibilidades de desarrollo del comercio, tales como la industria turística, la cual tiene un gran potencial en el área, así como la explotación de recursos minerales.

Se intenta actualmente hallar una solución válida a los problemas del tránsito y al aislamiento de los inughuit del resto de Groenlandia y del mundo exterior. El gobierno danés, en cooperación con el Gobierno Autónomo de Groenlandia, ahora ha propuesto al gobierno de los EE.UU. el restablecimiento de la ex comunidad de Uummannaq (Dundas) como un área civil para pasajeros en tránsito. La propuesta será negociada en el Comité Permanente, un cuerpo con participación danesa, groenlandesa, y americana, establecido para facilitar la cooperación entre Dinamarca-Groenlandia y los EE.UU. en materias acerca de la presencia y las operaciones de los EE.UU. en Groenlandia.

En el transcurso de los eventos del verano pasado se ha logrado que el gobierno danés estuviera de acuerdo con un diálogo más estrecho y más abierto con las autoridades groenlandesas sobre cuestiones de seguridad y que concediera un asiento al Gobierno Autónomo de Groenlandia en el concejo del Instituto Danés de Asuntos Extranjeros (DUPI), que investiga actualmente la política nuclear danesa entre 1945 y 1968.

Además de esto, se ha asignado a un comité permanente de funcionarios gubernamentales del Ministerio danés de Relaciones Exteriores y del Gobierno Autónomo de Groenlandia revisar el acuerdo de defensa de 1951 y estudiar los asuntos de seguridad importantes para Groenlandia de 1968 hasta hoy. El comité participará también en reuniones futuras acerca de la relaciones OTAN/Groenlandia entre el ministro de relaciones exteriores danés y el primer ministro de Groenlandia.

Para las personas reasentadas, la compensación y una disculpa formal siguen siendo cuestiones de importancia. En parte inspirados por su vecinos del Ártico Superior canadiense, quienes recientemente -como resultado de numerosas quejas presentadas al gobierno canadiense, seguidas de intensas vistas públicas- han recibido finalmente una compensación de 10 millones de dólares canadienses- los inughuit han formado ahora una asociación llamada Higitq 53 - «los condenados al ostracismo de 53» - y piensan presentar su caso contra el Estado danés a la Corte Europea de Derechos Humanos.

RUSIA

En el transcurso de 1995 no se promulgó ninguna de las leyes federales acerca de los pueblos indígenas prometidas por el Gobierno Federal. En la vista parlamentaria «Sobre la ratificación del Convenio 169 de la OIT» se tomó la decisión siguiente:

- tener en cuenta el punto de vista de la Federación en lo referente a recomendar que el presidente, como garante de la Constitución, proponga que el Convenio 169 sea ratificado por la Duma Estatal de la Asamblea Federal de la Federación Rusa en la sesión primavera, 1995,

- armonizar toda la legislación de la Federación Rusa, incluso la que se refiere, entre otras cosas, a la tierra, los recursos naturales, la propiedad, la imposición de contribuciones, la ecología, en conformidad con el Convenio 169 de la OIT,

- encomendar a los comités respectivos de la Duma Estatal la elaboración y puesta a consideración de un paquete de leyes referentes a los derechos de las minorías indígenas de la Federación Rusa que incluyan aquellos «Sobre la situación legal de las minorías indígenas de Rusia», «Sobre el estatus tradicional de las minorías indígenas» y «Sobre la subsistencia tradicional de las minorías indígenas de Rusia»,

- encomendar al Gobierno Federal ruso la tarea de desarrollar un sistema de medidas prácticas para asegurar la implementación de los artículos del Convenio 169 de la OIT, incluyendo una prohibición sobre la venta, compra, intercambio o arriendo de tierras pertenecientes a pueblos indígenas.

Sin embargo, ninguna de las antes mencionadas decisiones fueron cumplidas durante 1995. El Convenio de la OIT no fue propuesto para la ratificación de la Duma Estatal y no se hizo nada para armonizar la legislación rusa con los artículos de ese convenio.

La ley «Sobre la situación legal de las minorías indígenas de Rusia» fue promulgada dos veces por la Duma, pero fue vetada por el presidente como contraria a la Constitución y a algunas otras leyes de la Federación Rusa. La ley fue vetada de nuevo por el presidente el 20 de diciembre de 1995 con la explicación de que

«según el artículo 73 de la Constitución de la Federación Rusa los ciudadanos de la Federación Rusa, más allá de la competencia y autoridad de la Federación Rusa con respecto a áreas de compe-

tencia conjunta, disfrutan de todo el poder del estado, por lo tanto, la competencia del poder del estado de los ciudadanos de la Federación Rusa para proteger los derechos de minorías indígenas se debe determinar por las leyes de los ciudadanos de la Federación Rusa.»

Sin embargo, ésto parece contradecir otros artículos de la Constitución rusa, en particular el artículo 69, según el cual *«la Federación Rusa garantiza los derechos de minorías indígenas en conformidad con los principios y normas del derecho internacional y de los tratados internacionales generalmente adoptados»*, y el artículo 80 según el cual *«el presidente es el garante de la Constitución»*. La legislación de los asuntos está todavía en proceso de elaboración y su adopción definitiva está relacionada con la adopción de la Ley Federal.

Uno de los artículos centrales de la Ley Federal «Sobre la situación legal de las minorías indígenas de Rusia» fue también rechazado como no-constitucional. El párrafo 1 del artículo 4 y el párrafo 1 del artículo 8 del mensaje del presidente del 20 de diciembre, son especialmente notables. Éste garantiza la asignación a los pueblos indígenas de sus territorios tradicionales, y garantiza el establecimiento de aldeas y territorios étnicos. El Artículo 27 encara el establecimiento de territorios de subsistencia para las comunidades, empresas y organizaciones cuyas actividades estén asociadas con actividades económicas tradicionales de pueblos indígenas. Sin embargo, esta declaración parece ser anti-constitucional porque se pueden asignar sólo parcelas de tierra.

La actitud de la administración federal y regional, que por varios años ha estorbado la aprobación y sanción de leyes sobre los derechos de los pueblos indígenas, parece indicar su falta de voluntad para otorgar y garantizar sus derechos a las minorías indígenas, principalmente sus derechos a la propiedad de sus propios recursos.

Legislación insuficiente

La falta de leyes acerca de los derechos de pueblos indígenas ha aumentado sus privaciones y están perdiendo rápidamente sus tierras y recursos.

En las Áreas Autónomas Yamal-Nenet y Khanty-Mansi, en Siberia Occidental, las tierras que se entregaron a los pueblos indígenas en 1991 les han sido retiradas de nuevo. Algunas tierras han sido vueltas a reclamar por colectividades y granjas del estado y se usan ahora para actividades industriales petroleras y de gas. En

otro casos, los pueblos indígenas han sido forzados a arrendar sus tierras a largo plazo. Se han concluido acuerdos de ese tipo con la Compañía Rusa Accionaria Gazprom y ASCO. En estos casos, la ausencia de legislación firme ha hecho difícil juzgar estos acuerdos como ilegales.

En la Región del Lejano Oriente, donde nunca se entregaron las tierras a los pueblos indígenas, la administración alegó que las duras condiciones económicas hicieron necesario conceder concesiones sobre ciertas especies de peces y mamíferos marinos a compañías rusas y extranjeras.

En Kamchatka el resultado ha sido que las cuotas de pesca asignadas a cada persona indígena cayeron de 200 kg. a 30 kg. en 1995. Teniendo en cuenta que a los pueblos indígenas no se les suministra normalmente alimentos esenciales, ni siquiera pan, es entendible que los pueblos indígenas de Kamchatka pasan hambre.

Las administraciones locales usualmente alegan que, por un lado, no están al tanto de las condiciones de vida actuales de los pueblos indígenas, pero, por otro lado, admiten que están limitadas por diversos acuerdos con compañías a las que han concedido importantes cuotas de peces y otros recursos. También alegan, que no existen leyes federales acerca de los derechos de los pueblos indígenas, que la administración central no asigna fondos para los pueblos indígenas y que la administración tiene que hacerse cargo de la población entera, constituyendo los pueblos indígenas a menudo sólo un pequeño porcentaje de la misma (10% en Kamchatka).

La institución responsable federal, el Ministerio de Política Nacional y Regional, usualmente está representado por uno o dos funcionarios de bajo rango jerárquico, y éstos están desprovistos de finanzas y dependen completamente de la administración local, la cual les provee oficinas, apartamentos, equipos y otros servicios. En general, son incapaces de controlar a las autoridades locales.

Los pueblos indígenas de la República de Sakha (Yakutia) están en una situación un poco mejor. Se han promulgado leyes sobre los derechos de los pueblos indígenas, y se han asignado tierras y otros recursos a más de cien comunidades indígenas. Pero los programas para el desarrollo de estas comunidades casi no reciben financiamiento, y por lo tanto, algunas comunidades se desintegran.

En el congreso del pastores de renos que se celebró en Moscú en noviembre, miembros de comunidades de la República Sakha y otras regiones se quejaron de que no se suministra artículos de consumo a

los campamentos y a las aldeas de pastores de renos. Algunos delegados pidieron la restauración de las granjas estatales y del sistema de granjas colectivas que, se dijo, se ocupaban mejor de ellos. El congreso fue organizado por el Ministerio de Agricultura y el Ministerio de Nacionalidades como una reunión anual en Moscú consagrada a los problemas de pueblos indígenas. Los funcionarios de estos ministerios han logrado monopolizar la asignación de fondos y controlar los proyectos que, al ser manejados desde Moscú, son incapaces de mejorar la situación de los pastores de renos.

La condición demográfica general de los pueblos indígenas del Norte y del Lejano Oriente sigue en deterioro. El abuso del alcohol y la mortalidad causada por accidentes están en aumento mientras que el índice de nacimientos disminuye. Bajo las severas condiciones del Norte, los médicos y los maestros se van de los pueblos indígenas, aumentando el estado de privación. Bajo estas condiciones se han contemplado actividades espontáneas de revitalización en apoyo de las actividades culturales tradicionales, la restauración de comunidades basadas en los clanes, la restauración de formas antiguas de distribución y ayuda mutua, una vuelta al uso de la medicina tradicional así como la enseñanza a los niños sobre las actividades tradicionales de subsistencia.

El pueblo saami

Después de un largo período de marginación social y cultural y estigmatización de los *saami* de la Península de Kola, ha comenzado un lento proceso de reconstrucción de un específico estilo de vida socio-cultural saami. Igual que en Escandinavia, hay ahora programas radiales en lengua saami en Rusia. Se han publicado algunos textos de enseñanza escolar en lengua saami y en Lovozero se enseña en lengua saami en la escuela de internos. Se han publicado muchas colecciones de poemas saami y han surgido 3 nuevos grupos saami de danza y canto. Las artesanías, que habían prácticamente desaparecido, han experimentado ahora un gran renacimiento. En 1989 se formó la «Associacija Kolsikh Saamov» (Asociación de los Saami de Kola) y desde entonces han aparecido más y más uniones saami. Por ejemplo: «Saami Nursh» (una organización de la juventud), y la organización de artesanos y artistas saami de Kola. Los saami de Kola son miembros del Concejo Saami (que está representado por saami de Escandinavia y Rusia) y de la Asociación de Pequeños Pueblos Indígenas del Norte, Siberia y del

Lejano Oriente. Los saami de Kola quieren establecer un parlamento saami democrático como en los países escandinavos. Sin embargo, ha habido una resistencia muy fuerte contra estos pensamientos por parte del gobernador de la región de Murmansk, Evgenij Komaraov.

La situación económica en el área es desastrosa. La tasa de desempleo es más del 60%, y las condiciones de vivienda son muy malas. La mayoría del año no hay ninguna calefacción en las casas de Lovozero, donde vive la mayoría de los saami.

La privatización de la cría del reno es muy lenta. La pregunta es si los saami desean una privatización como en occidente. Muchos saami han dicho que quieren granjas colectivas de propiedad privada para la cría de renos, en lugar de granjas de propiedad estatal. Una de las «granjas estatales» de la península de Kola, «Tundra», ha sido privatizada. En Loparskaja, algunas familias saami han comenzado con establecimientos privados con unos cientos de renos cada una.

Ultimamente, la caza furtiva se ha constituido en una amenaza directa contra la cría del reno en Kola, especialmente en lo que respecta a los renos de Loparskaja. De un total de 5.000 renos, aproximadamente 1.000 han sido robados por intrusos. Los intrusos operan en canoas automóviles modernas, helicópteros o vehículos con tracción en las cuatro ruedas, dicen los pastores. También relatan que una gran cantidad de intrusos vienen del ejército ruso. Están uniformados y armados con «kalashnikoffs» que disparan en forma descontrolada sobre los rebaños de renos. Han disparado también contra muchos pastores cuando éstos trataron de defender a sus renos.

Un hecho positivo es que una compañía sueca ha entrado al mercado en Kola. Han establecido un matadero en Lovozero y exportan carne de reno a Suecia. Anteriormente mucha carne se pudría porque la infraestructura estaba desmantelada. Otro problema, sin embargo, es que ahora hay falta de carne en Lovozero porque se exporta la mayoría de la carne de reno a Suecia. En ese contexto se debe recordar que la carne de reno ha sido siempre una parte importante de las necesidades cotidianas en Kola, mientras que en Suecia la carne del reno (para los saami que no se dedican a la cría del reno) es un artículo exclusivamente suntuario.

SAPMI (EL PAÍS SAAMI)

Noruega

La Liga Natural Saami advierte a las autoridades contra la creciente pesca desde traineras que ocurre en las ensenadas. Las actividades de las traineras del camarón son una amenaza contra las diversas especies de peces en las ensenadas, porque los camarones son la comida principal de los peces y, por lo tanto, son necesarios para mantener una existencia variada de peces.

En Tysfiord las traineras pescan arenques. La población costera local saami no puede competir con las grandes traineras. Los saami costeros se han visto también impedidos de usar otro importante recurso marino, a saber el *cyclopterus lumpus*. La migración hacia la costa es entorpecida por las traineras que pescan fuera de la costa todos los peces a expensas de los saami. El Departamento de Pesca ha presentado una propuesta de usar dos ensenadas más para la pesca del camarón en traineras: Porsangerfiord y Tanafiord. Ésto ha causado las protestas de la unión de saami asentados allí. La población a lo largo de Porsangerfiord y Tanafiord son saami costeros. La pesca en las ensenadas es muy importante para la manutención de los poblados y al mismo tiempo es una parte importante de la cultura de los saami costeros.

En Lakselvdalen existen también problemas acerca de los derechos saami costeros. Desde antaño el derecho a la pesca del salmón ha pertenecido a la población saami/kvanske (los kvanske son inmigrantes de habla finlandés en Finmark). Mediante dudosos casos de cambios de tierras en 1950 y -60, el estado adquirió derechos territoriales privados a expensas de la población tradicional de Lakselvdalen, quienes disponían de derechos a la tierra. La administración de los bosques estatales de Finmark hoy alega poseer cerca de la mitad de las aldeas pescadoras de Lakselven (río del Salmón). La unión de los terratenientes de Lakselv ha administrado durante los últimos 45 años la pesca en el fiordo. Los terratenientes han considerado todo el tiempo la tenencia de los derechos pesqueros estatales como una continuación formal de los derechos tradicionales de los pueblos indígenas al manejo de Lakselv. Sin embargo, durante el año último ha surgido una discordancia entre la autoridad de los bosques del estado y los terratenientes acerca de los derechos al manejo. La administración de los bosques del estado alega tener el derecho a fijar los precios de las licencias de pesca en el fiordo. Ésto no puede ser aceptado por los terratenientes. La



Leif Hallonen del Concejo Saami, junto con dos niñas groenlandesas en Sisimiut, Groenlandia. Foto: Claus Oreskov.

administración de los bosques del estado de Finmark amenaza ahora con traspasar el manejo del fiordo al sindicato de cazadores y pescadores de Lakselv. El sindicato de los terratenientes ha apelado al comité de derechos saami, para que se protejan sus derechos tradicionales, incluyendo el derecho al manejo del Lakselv.

En noviembre de 1995, el parlamento saami presentó una propuesta de un programa de acción para las áreas saami de la costa y de los fiordos para el período 1997-2001. Para el parlamento saami, uno de los propósitos principales de la propuesta es mejorar y perpetuar la identidad, el idioma y la cultura saami. Otro propósito importante es fortalecer la sociedad saami, mediante un asentamiento estable y un comercio diversificado. El tercer propósito de importancia es fortalecer y mejorar los medios de acción saami, los derechos económicos, culturales y políticos. El cumplimiento de los propósitos se procurarán en 5 campos estratégicos: agricultura, pesca, economía mixta, casa de la cultura saami y mejora de la lengua saami.

Se ha acordado una nueva ley de la cría del reno. Los más importantes cambios en la nueva ley tienen la intención de eliminar los años de injusticia contra el trabajo saami de la cría del reno. Antes, cuando había una discordancia acerca del derecho a un área de pastoreo, era el dueño de los renos quien tenía que probar que tenía el derecho a esa área. Si hoy hay una discordancia entre granjeros/terratenientes y dueños de renos acerca del uso de un lugar de pastoreo, es ahora el granjero quien tiene que probar que el dueño de los renos no tiene derecho a pastar en el área. Antes de la promulgación de la nueva ley de cría de renos hubo un prolongado debate en los medios de difusión y en los ámbitos políticos. Los dueños de la tierra se quejaron acerca de la pérdida de sus derechos en beneficio de los saami.

En este contexto es importante recordar que los saami que trabajan en la cría del reno tuvieron que abandonar grandes áreas de pasturas a los granjeros en 1894, cuando una resolución real organizó las áreas de pasturas de renos en distritos. Los saami que se ocupaban de la cría del reno en Hedmark y Sør-trøndelag fueron desplazados de una gran área que habían usado durante largo tiempo. La nueva ley de cría del reno no permite que los saami dueños de renos extiendan sus áreas de pasturas, que han ocupado desde la resolución acerca de los distritos de 1894. Pero podrán mantener las áreas reducidas que se les dieron en ese entonces.

Los terratenientes mantendrán el área que ahora tienen y se les ofrecerá compensación por probables pérdidas en caso de pastoreo ilegal en sus áreas. La vicepresidenta del parlamento saami, Ing-Lill Pavall, dice al periódico saami Ságat: *«estoy satisfecho que el parlamento noruego por fin haya tomado la responsabilidad acorde a las obligaciones que Noruega tiene para con el pueblo saami en general y especialmente por el oficio de la cría del reno.»* Ing-Lill Pavall acentúa que se debe usar la nueva ley para buscar un diálogo entre los intereses en conflicto y no para crear un conflicto.

Suecia

En agosto de 1995 comenzó una marcha por los derechos saami en Karesuando. El 17 de agosto llegaron a Estocolmo, donde entregaron una carta al gobierno sueco. Participaron en la marcha saami de muchas aldeas saami, diversas uniones y sindicatos saami. En la carta al gobierno los participantes de la marcha demandaron que el pueblo saami debe tener el derecho a la autonomía como pueblo

indígena, tal como se garantiza en la constitución. Que la lengua saami debería ser reconocida como lengua oficial. Que Suecia ratifique el Convenio No. 169 de la OIT. Que los saami administren los derechos de caza y pesca. Los representantes de la marcha señalaron que querían una solución política en lugar de un arreglo legal. Una solución política que pueda establecer cómo la tierra y el agua podrían ser administradas en las áreas saami sin aclarar necesariamente si son los saami o el estado quien posee las áreas de tierra.

Los saami continúan su protesta contra el apoderamiento del estado de la administración de la caza de animales pequeños. La cuestión fue presentada al tribunal europeo en Estrasburgo (ver El Mundo Indígena 1994-95:44). Hasta entonces las aldeas saami del departamento de Jämtland han decidido prohibir la caza menor en su tierra. «*No tenemos el poder legal hoy para emitir tal prohibición*» dice Olof Johansson, el portavoz de los saami de Jämtland, «...*pero tenemos el poder moral de hacerlo*». Los saami esperan que los cazadores respeten «su poder moral» y boicoteen la caza menor en las áreas saami.

El parlamento sueco ha decidido que el parlamento saami debe hacerse cargo de la administración del pago por daños y perjuicios cometidos por los animales carnívoros a los rebaños de renos, a partir del 1 de enero de 1996. Ingvar Åhrén, el portavoz del parlamento saami señala algunos problemas importantes acerca del nuevo sistema. El monto de la compensación, que es de 14 millones de coronas suecas al año, se basa en el número informado de renos muertos por animales carnívoros. Åhrén dice que la compensación debe ser reconsiderada de acuerdo al número de animales carnívoros. La idea es pagarle compensación a los dueños de renos, independientemente de si es posible hallar al reno muerto o no. Si el gobierno sueco mantiene las 14 millones de coronas como base de la compensación entonces deben reducir el número de animales carnívoros presente a 1/3, dice Ingvar Åhrén.

El 21 de febrero de 1996 un tribunal de distrito emitió un veredicto acerca del derecho saami a las pasturas de invierno en el valle Härje. El veredicto declaró que los saami no tienen derechos tradicionales al pastoreo del reno más allá del límite de la zona de bosques. La consecuencia será que dos aldeas saami, que tienen todas sus pasturas de invierno en la municipalidad del valle Härje, perderán todas sus pasturas de invierno tradicionales. Otras dos aldeas saami que también tienen pasturas de invierno fuera de la

municipalidad perderán la mitad de las pasturas de invierno necesarias. El veredicto pone fin temporariamente a un conflicto muy largo entre los saami criadores de renos por un lado y los granjeros suecos y diferentes compañías forestales suecas por el otro.

Finlandia

Por iniciativa saami se estableció la ley (L.17.7.1995/973) acerca de la autonomía cultural saami como pueblos indígenas en el territorio saami (que no concierne el derecho a las tierras y a las aguas). La mayoría de los 7.000 saami de Finlandia habitan en el Territorio Saami, en la parte septentrional de Finlandia. En este contexto se fundó una nueva organización representativa para los saami (L.17.7.1995/974), el nuevo Parlamento Saami (*Sámediggi*). La primera elección al nuevo Parlamento Saami se celebró en otoño de 1995 y se eligió a Pekka Aikio como el primer presidente. El nuevo Parlamento se hará cargo de las diversas funciones conectadas con el anterior parlamento saami.

La ley acerca del nuevo Parlamento Saami y la autonomía cultural pueden llegar a ser un bumerang que se vuelva contra los saami y los expulse de su propio órgano representativo. Al mismo tiempo que se adoptó la ley sobre el nuevo parlamento saami, el parlamento finlandés cambió la existente noción saami, de tal manera que cualquiera que pueda señalar un saami entre sus antepasados puede definirse como saami y en consecuencia, alcanzar el derecho a votar y la posibilidad de ser nominado al nuevo parlamento. Antes, el criterio para ser considerado saami era que al menos uno de los padres o abuelos deberían haber tenido la lengua saami como su lengua principal y ésto daba el derecho a votar por el parlamento saami. El nuevo «criterio de la sangre» para ser considerado saami, en realidad hace posible que un gran número de personas que no son saami «étnicos» (culturalmente) puedan votar por el nuevo parlamento saami. Incluso lejos de las actuales áreas saami, muchas personas que étnicamente pertenecen al pueblo finlandés pueden probar que tienen antepasados saami lejanos. Los saami étnicos temen lo qué puede pasar si estos «nuevos saami» potenciales logran influencia en el nuevo parlamento saami.

La ley de autonomía cultural saami ha provocado una vergonzosa persecución de los saami en la prensa finlandesa. La prensa ha apoyado en forma parcial a las tendencias hostiles a los saami en partes de la población. En las áreas norteñas finlandesas muchos saami han sido expuestos a amenazas de un carácter muy severo.

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1. *Lubicon*
2. *Innu*
3. *Blackfeet*
4. *Shoshone*
5. *Apache*

AMÉRICA DEL NORTE

CANADÁ

La Nación Lubicon Cree

La situación de la pequeña tribu de los *lubicon cree* del norte de Alberta sigue siendo dramática: mientras que las antiguas amenazas, como la explotación maderera de limpieza total de la Daishowa Paper Co. y la planta de operaciones de gas ácido de Unocal se dilatan, se hace inminente una división de la Nación Lubicon y la renuncia del Acuerdo Grimshaw de 1988 por parte de la provincia de Alberta (ver también informes de IWGIA a partir de 1984 en Asuntos Indígenas, los más recientes en el N° 2 de 1995; y en El Mundo Indígena: 1994/95).

El territorio tradicional (de caza) de unas 4.000 millas cuadradas de los cree de Lubicon Lake, que contaban con unos 500 individuos en 1988, está ubicado al este del Río Peace y al norte del Lago del Pequeño Esclavo, y sus hogares están ubicados alrededor del Lago Lubicon, dónde reivindican una reserva de 95 millas cuadradas. Como nunca integraron el Tratado N° 8, mantienen todavía el título aborigen de sus tierras tradicionales. En lo que respecta a la controversia entre Daishowa y los Amigos de los Lubicon (FOL), la compañía papelería había presentado en enero de 1995 una demanda por 5 millones de dólares contra el FOL, acusándolos de «actividades ilegales de boicot» y de haber ocasionado «daños irreparables» a la compañía. Fue sorprendente que el interdicto de Daishowa para detener el boicot de FOL durante tres meses, no fuera otorgado por la Corte Provincial de Ontario. En cambio, el 19 de mayo de 1995, el Juez Frances Kitley estableció que los piquetes secundarios, los piquetes informativos que los simpatizantes de los lubicon mantenían fuera de los negocios que venden los productos Daishowa, para hablar con los consumidores, no son ilegales. Por otro lado, los amigos de los lubicon no deben usar el término «genocidio».

La Nación India de Lubicon Lake reaccionó frente a esta decisión positiva de la corte mediante un informe de prensa: «Espera-

mos que Daishowa comprenda el mensaje de que no pueden usar a la justicia canadiense para reprimir las críticas a sus acciones en Canadá. Esperamos también que Daishowa haga innecesarias las actividades de boicot, comprometiéndose clara, pública e inequívocamente a no cortar o comprar madera en territorios lubicon no cedidos hasta que se encuentre una solución a los derechos a la tierra de los lubicon y se llegue a un acuerdo de explotación de la madera, negociado con el pueblo lubicon, que respete a nuestros intereses relacionados con la fauna y el medio ambiente».

No obstante, en respuesta a una apelación de Daishowa, la Corte de Ontario sentenció, en enero de 1996, que el boicot de los Amigos de los Lubicon era ilegal, obligando a una detención temporaria del mismo hasta que sea tratada la solicitud de interdicto de parte de Daishowa. La Corte consideró que el interés primario del boicot de los Amigos de los Lubicon era causar un perjuicio económico a Daishowa y no apoyar a la Nación Lubicon. «Esta decisión pone seriamente en peligro la libertad de expresión», dijo un abogado de FOL.

En el otoño pasado, los indígenas lubicon volvieron a abrigar el temor de que Daishowa Paper Co. pudiera comenzar otra vez a cortar árboles en su territorio, cuando empezaron a notar la continuación de la construcción de caminos. En respuesta a una carta que expresaba la preocupación de IWGIA a este respecto, Daishowa-Marubeni Int. Ltd. aseguró, en diciembre de 1995, que esto no constituía una «nueva construcción, sino modificaciones y mejoras a una ruta de acceso invernal que había sido construida para la estación maderera del año pasado». DMI había «consultado personalmente con los lubicon», quienes «no habían exigido que DMI detuviera los trabajos». Por el contrario, en una respuesta a una subsidiaria de Daishowa, de noviembre de 1995, el jefe lubicon Ominayak dejó claro que «si bien apreciamos el esfuerzo de mantenernos informados de sus ...operaciones, agradeceríamos aún más que Daishowa respetara nuestro acuerdo de marzo de 1988, manteniéndose simplemente fuera del territorio lubicon hasta que se encuentre una solución a los derechos territoriales lubicon...» ...«En su defecto, solicitamos una vez más, con respecto a la propuesta ampliación de la existente ruta de acceso ... que Brewster (Construction Ltd.) ...nos consulte antes de implementar los trabajos propuestos; acuerde respetar nuestros intereses relativos a la fauna y el medio ambiente» y «acuerde tener en cuenta a los lubicon con respecto a cualquier tipo de empleos que pudieran surgir...»



Aldea lubicon, Little Buffalo. Foto: Gérard Pleynet

En lo que respecta a la planta de gas ácido de UNOCAL que comenzó a operar a mediados de abril de 1995 a menos de 2 millas de la propuesta reserva lubicon, la orden católica de la Escuela de Hermanas de St. Francis, aliada de los lubicon y accionistas de UNOCAL, logró obtener una resolución en el programa de la Reunión Anual de Accionistas que tuvo lugar en Houston el 22 de mayo. Hace un llamado en favor de un informe pleno sobre la refinería de gas ácido, que incluya las «consecuencias probables» de la operación. De acuerdo al jefe Bernard Ominayak, la planta «plantea un grave riesgo para la salud. Procesa sulfuro de hidrógeno y dióxido sulfúrico, productos químicos asociados con enfermedades respiratorias y de la piel y varios tipos de cáncer. Solicitamos a UNOCAL que cerrara o trasladara la fábrica unas 12 millas más al sur, dónde no estaría ya directamente en la dirección del viento que sopla hacia nuestra reserva. UNOCAL se negó.» «La mayoría de los distribuidores de UNOCAL son las estaciones gasolineras Union 76....» «Pedimos a los californianos que compren la gasolina en cualquier otra estación que no sea Union 76 y UNOCAL, en apoyo a la Nación India Lubicon Cree».

En diciembre de 1995, se hizo público un informe del Centro para el Medio Ambiente de Alberta, relativo a daños al medio ambiente causados por la explotación de gas y de petróleo en

Alberta, solicitado por la Comisión Ganadera de Alberta. El resumen establece que «se pueden identificar suelos y aguas subterráneas contaminadas en muchos de los casi 13.000 criaderos... El ganado ha muerto, ha sido lesionado, y ha sufrido problemas de crecimiento y reproducción...» ...«El envenenamiento de gas ácido ha sido constatado en animales expuestos a las emisiones de gas de los pozos.» Con más de 400 pozos de petróleo en un radio de 22 km² de su comunidad, y muchos más en su territorio tradicional, los indígenas lubicon en una vista de la planta UNOCAL, en el otoño pasado, manifestaron su duda respecto a que hubiera mucho ganado en Alberta que experimentara la misma concentración de contaminantes de la industria petrolífera que la que experimentan los niños lubicon. El 21 de diciembre otro bebé lubicon murió de una afección aguda a las vías respiratorias superiores.

El informe general completo, aprobado por la Comisión Ganadera, es sofocado por el gobierno Provincial de Alberta por «defectuoso» y porque «si se hace público los japoneses no comprarán la carne proveniente de Alberta.»

Por más información, tomar contacto con:

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Los innu de Nitassinan (Labrador)

En la edición del año pasado de Asuntos Indígenas se hizo referencia a las exploraciones minerales en el norte de la península del Labrador. En este momento el valor bruto de los depósitos de níquel, cobre y cobalto hallado hasta ahora se estima en alrededor de 20 mil millones dólares canadienses. Desde la última edición de Asuntos Indígenas, las actividades relacionadas con la minería han aumentado explosivamente. Hoy hay más de 280.000 reivindicaciones presentadas en Labrador por 170 compañías públicas e individuos. Más de 40 compañías realizan actividades de perforación en un área que cubre prácticamente todo el territorio de los *mushuau innu* y los *inuit*. Esta actividad frenética de exploración ocurre sin aviso, consentimiento o consulta con los *inuit* o los *innu*.

En una Conferencia sobre Aborígenes y Minería, en noviembre de 1995, Peter Penashue, presidente de la Nación Innu, dejó en claro que:

«Los innu nunca han reconocido las jurisdicciones que ahora nos demandan. Nunca hemos firmado un tratado, ni cedido una pulgada cuadrada de nuestra tierra. En el pasado estas cosas no eran necesarias, ya que era posible para los innu y los akenishau (los blancos) compartir la tierra y sus recursos. Pero hoy, somos forzados a tratar con gobiernos, compañías e individuos que tratan de empujarnos a un lado en su prisa por reivindicar esta tierra como propia para el desarrollo industrial.»

Comparando las «reivindicaciones de tierra» innu con las reivindicaciones que las compañías mineras hacen en territorio innu, Penashue hizo notar algunos puntos importantes aplicables a las «reivindicaciones de tierra» de todo los pueblos indígenas:

«'Reivindicación' parece ser una palabra importante en este momento. A mí me gustaría hablar sobre qué es lo que reivindicación significa para los innu. Hemos pasado años en las llamadas negociaciones de «reivindicaciones de tierra». Uso la palabra «reivindicación» aquí en forma no voluntaria, porque los innu no reivindican nada. En realidad son Canadá y Newfoundland quienes están «reivindicando» tierras que pertenecen a los indígenas. Nuestra experiencia con el «proceso de reivindicación de tierra» nos ha dejado la impresión que es apenas algo más que un ejercicio de relaciones públicas para el gobierno, una manera de satisfacer la conciencia pública. Digo esto con pesar, porque cuando iniciamos el proceso teníamos la esperanza de que las cosas cambiaran. Pero es difícil mantener la esperanza mientras que estamos sentados en la mesa de negociaciones observando a Newfoundland y Canadá regalar nuestra tierra y nuestro futuro.

Hemos aprendido también que los gobiernos hacen una distinción clara entre las «reivindicaciones» indígenas y las demandas de las compañías mineras. Desde noviembre pasado, se han presentado más de 250.000 demandas mineras (como la de nov., 1995) en Labrador. Muchas de estas reivindicaciones son sobre tierra innu. Pero estas reivindicaciones mineras se toman más seriamente y se les presta más consideración por el gobierno de Newfoundland que la que se le ha prestado alguna vez a las reivindicaciones innu.

Para que una compañía presente una reivindicación, todo lo que necesita es una corta visita a las Tierras Mineras de St. John para dibujar unas líneas en un mapa. Ésto garantiza el reconocimiento del gobierno de los derechos minerales. Cuando la Bahía de Sango

fue reivindicada, el sitio elegido por la comunidad de la ensenada de Davis para su reasentamiento, se nos dijo que la decisión era irreversible. Las reivindicaciones mineras de la compañía son obviamente más importantes que nuestros derechos. Para que se les reconozcan sus derechos a los innu, debemos pasar años y gastar cientos de miles de dólares realizando detallados estudios del uso y ocupación de la tierra, los cuales se someten entonces a los gobiernos para su «consideración.» Debemos esperar que los gobiernos decidan negociar con nosotros, un proceso que puede tomar años. Sometimos nuestro estudio del uso y ocupación original de la tierra en 1977. Hemos estado ahora en la mesa de negociaciones durante 5 años, y hemos sólo logrado acordar una lista de puntos de discusión.»

Es importante notar que, conforme a los gobiernos de Newfoundland y Canadá, las demandas de las compañías mineras constituyen «intereses de terceras partes» en la mesa donde la Nación Innu negociará sus derechos territoriales. Ésto significa que estos intereses serán «protegidos» en las negociaciones con la Nación Innu. Además, si se exploran activamente, habrán numerosos impactos directos y severos sobre los derechos innu y sobre el medio ambiente antes de que se alcance cualquier solución.

La manipulación de las actividades mineras que ocurre en Labrador es una repetición de todas las decisiones y acciones de los gobiernos federales y provinciales que MacRae critica en su informe sobre los Derechos Humanos en la Ensenada de Davis (MacRae 1993). En su informe, MacRae señala las responsabilidades fiduciarias que el gobierno de Canadá no ha cumplido, con consecuencias dramáticas para los innu; consecuencias que se reflejan en la tasa alarmante de enfermedades y suicidios (ver Rich 1994). Una vez más los derechos e intereses de los innu son ignorados.

Según un punto de vista prevaleciente entre los eurocanadienses en Canadá del sur, los innu y los inuit del Labrador no deberían ser más considerados como cazadores y pescadores de subsistencia. El usufructo de la fauna se considera como una forma anticuada de procurarse la subsistencia. Sin embargo, el hecho es que para los pueblos indígenas del Labrador la caza y la pesca de subsistencia continúan siendo de importancia crucial, y lo seguirán siendo aunque algunas personas indígenas sean empleadas por las compañías mineras. Ésto es así por varias razones: su vinculación económica al mercado es solamente marginal ya que hay una escasez de produc-

tos que puedan aportar dinero efectivo. También es importante el hecho que el usufructo de la fauna es crucial en su manejo de las relaciones sociales y para el logro de la identidad, y juega un papel fundamental en su cultura.

«Los innu continúan dependiendo de la tierra para asegurar su alimentación, bienestar, y valores espirituales y culturales. Cuando nuestros ancianos hablan acerca de 'proteger la tierra', significa mucho más que 'protección del medio ambiente'. Para nosotros la tierra es todavía la piedra fundamental de nuestra identidad. Es nuestra historia y nuestro futuro» (Pedro Penashue, ob. cit.).

Aunque varios inuit están buscando posibles beneficios económicos futuros en la industria minera, tanto la Asociación Inuit del Labrador como la Nación Innu reaccionan fuertemente a causa de la forma cómo sus derechos e intereses son ignorados por el gobierno y las compañías. Ésto ha conducido a la cooperación entre las dos organizaciones indígenas.

Mientras que las actividades mineras son aceleradas con rapidez tremenda, los vuelos de baja altura continúan sin disminuir. En febrero de 1996 se firmó un acuerdo entre Canadá y los demás miembros de la OTAN para continuar los vuelos. Éste permite hasta 18.000 vuelos militares anuales sobre las tierras innu durante los próximos 10 años. En un esfuerzo para disuadir a los países de la OTAN de renovar el acuerdo, simpatizantes innu organizaron una dramática acción de desobediencia civil en los consulados británicos y holandeses en noviembre del año pasado.

Nueve de los simpatizantes innu que fueron acusados de entrar ilegalmente durante la protesta han sido declarados inocentes en una importante decisión de la corte que declara que acciones tan extremas se justifican para prevenir una destrucción más intensa de los innu por los vuelos militares de baja altura sobre sus tierras.

«Estoy dispuesto a sostener que los acusados violaron la ley por omisión para prevenir un mal mayor, es decir, para impedir la destrucción del pueblo innu y sus derechos humanos básicos.» dijo el Juez de Paz Robert Phillips, en su decisión.

Más de tres días de testimonios conmovedores ante una corte desbordante de gente dieron evidencia de la destrucción medio-ambiental causada por los vuelos de baja altura de instrucción militar sobre las tierras innu en Labrador, y de la asimilación cultural y la discriminación sistemática enfrentadas por los innu y su resistencia feroz al genocidio cultural.

Testigos innu testimoniaron en el juicio sobre las graves amenazas sobre la salud de sus comunidades, su cultura y su tierra que implican los vuelos de baja altura, así como el desarrollo más reciente de la propuesta mina de níquel de Bahía de Voisey en sus territorios tradicionales. Después de oír evidencias de los nueve acusados así como de numerosos expertos, entre ellos el presidente de la Nación Innu, Peter Penashue, el ex miembro del Parlamento, Dan Heap, el economista Mel Watkins, el experto legal John Olt-huis y otros, el Juez de Paz sentenció que la acción de desobediencia civil del mes de noviembre estaba justificada dada la amenaza grave e inmediata de los innu.

El abogado de la defensa, Peter Rosenthal, dijo que la decisión abre el camino para protestas similares, una valoración afirmada por la acusada Carolyn Langdon, quien sostiene, «Ésta es una decisión muy importante para los innu, pero también para muchos de nosotros que luchamos por justicia. Esta es una decisión positiva que otros pueden usar en su defensa, por ejemplo, cuando resisten de esta manera al gobierno de Harris, en Ontario, y sus políticas que dañan gravemente a personas vulnerables.»

La acusada Lorraine Land, también una de las nueve personas declaradas inocentes por el juez, dice «estoy extática acerca de esta decisión. Pensamos preguntar a los gobiernos canadiense y de la OTAN qué harán, ahora que la justicia ha sentenciado que el riesgo que estos vuelos causan a los innu son inminentes y se justifica que canadienses adopten acciones tan graves como la desobediencia civil para detenerlos.»

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o

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ESTADOS UNIDOS

Blackfeet

La situación de la comunidad de lengua *blackfeet* de Montana, EEUU, sigue sin resolverse. Aunque el gobierno de los EEUU prolongó la suspensión de las perforaciones una vez más, hasta el 30

de junio de 1996, el grupo Chevron, EEUU, y Petrofina Bélgica, no han abandonado los planes de perforación petrolífera en el área de Badger-Two Medicine. El área es parte de las tierras tradicionales de la nación blackfeet, especialmente de su tribu *pikuna*, y está salpicada de sitios sagrados. Además, Badger-Two Medicine es uno de los últimos parajes salvajes de los EEUU, fuera de Alaska, y es un refugio de muchas especies animales y vegetales amenazadas. El objetivo de los esfuerzos de las compañías petroleras para obtener acceso al área, en la cual las expectativas de encontrar petróleo es de sólo el 0,5 %, es establecer un precedente, con el objetivo futuro de la apertura de las grandes reservas petrolíferas de Alaska para la explotación económica, las cuales yacen en territorios indígenas.

Tanto la comunidad blackfeet como los ambientalistas han promovido una ley de protección del área de Badger-Two Medicine contra la explotación. Pero después de las elecciones que corresponden a la mitad del período electoral de 1994, no queda ningún senador o diputado que desee apoyar acciones legales que protejan el medio ambiente y garanticen los derechos tradicionales de las Naciones Originarias Americanas. Por lo tanto, los blackfeet de Montana de pensamiento tradicional han realizado grandes esfuerzos durante el año pasado, para proteger su comunidad. En junio de 1995, unos 100 ancianos se reunieron en Montana y decidieron volver a fundar la confederación integrada por los *pikuna* del norte y del sur (Alberta/Canadá y Montana/EEUU), los *siksika* y los *kaina* (Alberta). Celebrarán una reunión conjunta anual, tal como lo hacían los blackfeet antes de ser colonizados por el Canadá y los EEUU. Además, cada tribu nombra personas de contacto, quienes se reunirán entre las reuniones anuales, para prepararlas. Este Consejo de Ancianos asesorará a la Confederación Blackfeet en áreas tales como la política, la cultura, la religión y la economía. La interpretación de los viejos tratados entre la Confederación Blackfeet por un lado y Canadá y los EEUU, por el otro, y la protección de los lugares sagrados son aspectos muy importantes de esta asesoría.

Este es probablemente el resultado más importante del resurgimiento cultural de la Nación Blackfeet unida. El fundamental objetivo político es renegociar el Tratado de 1895, para lograr la consideración de los intereses de la Confederación Blackfeet, un acuerdo justo y paz. Además, una demanda importante de los blackfeet de pensamiento tradicional es una disculpa oficial por la Masacre del Río Marías, en 1870, cuando 173 blackfeet fueron muertos por la Caballería de los EEUU.

El establecimiento del Consejo de Ancianos debería impedir que el Consejo Tribal de la comunidad de habla blackfeet de Montana malvenda los derechos y propiedades tribales. Para dar sólo dos ejemplos, el Consejo Tribal ha concedido al Estado de Montana el derecho a las funciones policíacas de la reserva y otorgó a un contratista no-indígena el derecho a construir el nuevo edificio del BIA. En vez de que la tribu blackfeet sea la dueña de este edificio y lo arriende a la BIA, ahora será de propiedad de ese contratista. La pérdida neta para los blackfeet asciende a 15 millones de dólares durante los próximos 20-25 años.

Los shoshone occidentales

La situación de los *shoshone occidentales*, en cuyo territorio tradicional está situado el Campo de Pruebas de Nevada (NTS) para armas nucleares, no ha mejorado durante los últimos tiempos (ver también Asuntos Indígenas 3/95). Por el contrario, el gobierno de los EEUU anunció dos pruebas nucleares en junio de 1996, aunque las pruebas francesas se enfrentaron a una reacción mundial muy negativa. Además, el Consejo Nacional de los Shoshone Occidentales aprobó una resolución el 2 de diciembre de 1995, declarando a todo el territorio tradicional de la tribu como zona libre de armas nucleares. En una carta al Presidente Bill Clinton, el Jefe Raymond D. Yowell, caracterizó las pruebas nucleares anunciadas como escandalosas y como violaciones directas del Tratado de Ruby Valley, de 1963, tanto en el espíritu como en la letra. El Jefe Yowell declaró en su carta al Presidente que «... Las continuas acciones de los EEUU, en conflicto deliberado con los principios e intereses del gobierno de los shoshone occidentales, mediante el desarrollo, prueba o promoción de las actividades nucleares en nuestro territorio, sólo pueden ser consideradas como un acto de genocidio. Y como tal, un acto de salvajismo que sobrepasa aquellos del pasado y debe ser condenado vehementemente como horrendo....» El Jefe Yowell exigió, además, una discusión justa y abierta de los varios problemas no resueltos, así como la información sobre los efectos de los cientos de pruebas nucleares a partir de los años 50 hasta los 90, un análisis de los impactos radioactivos acumulativos en NTS, la recuperación del medio ambiente y la compensación de las víctimas de las pruebas nucleares y una administración de los desechos radioactivos, problemas de empleo, sitios históricos y arqueológicos, etc. Era absolutamente necesario preguntarle al Presidente estas pregun-

tas a causa de la consecuente actitud de ignorancia de BIA y su negativa a negociaciones constructivas.

En noviembre de 1995, surgió un nuevo problema de actualidad para los shoshone occidentales. El municipio de Lander propuso la construcción de un parque y una represa con fines recreativos en Rock Creek (*Bah-tza-gohm-bah*). Los shoshone occidentales han celebrado ceremonias de importancia religiosa y espiritual durante miles de años en Rock Creek. Siguen celebrando sus encuentros religiosos allí hasta el día de hoy. Por lo tanto, el área tiene características que califican su inclusión en el Registro Nacional de Lugares Históricos y la Ley de Libertad de Cultos de los Indios Americanos, y tiene derecho a ser protegida por las mismas. Además los cementerios shoshone están situados aquí.

Pero no es por consideración a las «facilidades recreativas» de su electorado que los miembros del Congreso expresan interés en el proyecto de Rock Creek. Es el reforzamiento de la expansión y la rentabilidad de las minas de oro multinacionales que impulsa tanto a los congresales como al municipio de Lander (ver también *El Mundo Indígena* 1994/95). Las empresas American Barrick y Newmont Gold, ambas de propiedad y operación transnacional, han estado expandiendo sus minas abiertas de oro, acumuladoras de cianuro, unas cuarenta millas al este de Rocky Creek. Ambas minas están bombeando el agua que surge del fondo de las minas abiertas, a cientos de pies de profundidad. Newmont y Barrick han estado vertiendo el agua bombeada en el embalse del TS Ranch, de propiedad de Newmont. Pero ya se ha superado la capacidad de este embalse. El enorme peso y la presión, han provocado una pequeña fisura en el embalse que permite que el agua se filtre al subsuelo, emergiendo a través de una serie de filtraciones y fuentes corriente abajo. Enfrentada a la violación de los permisos, Newmont trató de reparar la fisura, encontrándose con un bloqueo de caminos de los camiones de Barrick. Rellenar la fisura significaba una restricción de las actividades de desagüe hasta que se encuentre otro lugar donde el desagüe sea aceptable. Las dos minas solicitaron arbitraje. El Ingeniero del Estado, Mike Turnipseed, recomendó y solicitó un permiso para permitir a las minas verter de 60.000 a 70.000 galones por minuto en Rock Creek! Esta agua es de alto contenido arsénico y cumple sólo con las normas agrícolas. Normalmente ésto superaría al arroyo, pero con el proyecto de embalse, y la necesidad del municipio de una corriente de agua y derechos al agua, la sugerencia

del Ingeniero del Estado es casualmente oportuna. Al estar ya en marcha el permiso, se ha producido la unión entre las minas, el estado y el municipio para sellar el proyecto de represa y embalse de Rock Creek.

El Departamento de Administración Rural de los EEUU sigue tratando de quebrantar a la familia Dann. Esta familia, junto con otros shoshone del Great Basin, han estado en litigación en contra de las reivindicaciones federales y estatales de tierras. Esta lucha ha significado más de 20 años de batallas legales. Durante todo el año se mantiene un campamento de shoshone y simpatizantes para proteger la tierra, la fauna y el pueblo. En 1995, el Departamento de Administración Rural vio una posibilidad para confrontar a Tim Dann con una nueva acusación dudosa. Del 20 al 23 de julio, hubo un incendio a un cuarto de milla del Rancho Dann. Tim Dann, junto con el Proyecto de Defensa de los Shoshone Occidentales y otras personas de la localidad, trataron de extinguir otros fuegos, innecesarios, encendidos por el Departamento de Administración Rural para combatir al incendio. Tim Dann fue acusado de obstruir a un funcionario. La justicia todavía no ha decidido el caso.

Por más información tomar contacto con:
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Indian Springs, Nevada 89018-0210
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The Western Shoshone Defense Project
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tlf.: (702) 468-0230
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Citizen Alert Native American Program
P.O. Box 5339 Reno NV 89513
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Apaches

Desde 1989, los *apaches* de San Carlos y los ambientalistas norteamericanos han estado luchando contra el Observatorio Internacional del Monte Graham (MGIO), una estación telescópica en la cima de la

montaña sagrada apache «*Dzil nchaa si an*.» Fue ilegalmente separada de la reserva de San Carlos y puesta bajo la jurisdicción del Servicio Forestal de los EEUU (USFS) en 1873. El Monte Graham es una de las cuatro montañas sagradas de los apaches, habitadas por los espíritus «*ga'an*». Es un punto central de las ceremonias y cantos religiosos, así como también de la identidad apache. Los curanderos todavía juntan hierbas y agua para sus curaciones en la región alta, donde también hay muchos cementerios y sitios de culto. Hoy, grandes edificios de cemento y telescopios de metal (que obstruyen a los fieles) bloquean el área superior del Mte. Graham.

Para los ecologistas, esta zona es un refugio de la vegetación de los períodos glaciales -es, p. ej., el mayor bosque boreal del suroeste de los EEUU- y de una fauna única, como el oso negro y la ardilla roja.

A pesar de las protestas, se construyeron dos telescopios más pequeños, el observatorio VATT, del Vaticano, y el de la Sociedad Max-Planck (MPG), alemán. Ahora, la Coalición por la Supervivencia Apache (ASC), bajo la dirección de Ola Cassadora Davis (de 77 años) y una coalición de organizaciones ecologistas, están luchando por el traslado de los telescopios y para impedir la construcción de un Gran Telescopio Binocular (LBT) por MGIO, bajo la dirección de la Universidad de Arizona. Mientras que la mayoría de los socios norteamericanos renunciaron al proyecto a causa de irregularidades en la obtención del permiso especial de construcción, otro instituto alemán, el Consejo de Observatorios Alemanes (RDS) decidió incorporarse en noviembre de 1995. Se otorgó un permiso especial de construcción para el área definida (incluyendo el LBT) sólo gracias a una legislación de exención de la Ley de Política Nacional para el Medio Ambiente (NEPA) y de la Ley de Especies Amenazadas (ESA). A pesar de esto, en 1993 la Universidad de Arizona se abocó a una tala ilegal de bosques antiguos fuera de esta área, lo cual llevó a un detenimiento de la construcción por parte de la justicia de los EEUU.

Las protestas de la Coalición por la Supervivencia Apache contra el telescopio, están respaldadas por cinco resoluciones del Consejo Tribal (la última de junio de 1995), una petición de 15 líderes espirituales apaches, y el apoyo de otros Consejos Tribales como el de los *mohawk*, el de los *pima-maricopa* de Salt River y el *kaibab-paiute*, así como también del Congreso Nacional de Indios Americanos. Este último aprobó una resolución en noviembre de 1995 contra la nueva legislación de exención, preparada por UA y el senador Kolbe. Mientras tanto, otra organización, los Apaches por la Preservación Cultural (AFCP) se sumó a los oponentes del telescopio.

En noviembre de 1995, el vicepresidente del Consejo Tribal, Marvin Mull, envió una solicitud al Ministro de Justicia para que investigara las siguientes presunciones de violación de leyes: que en junio de 1993 el Supervisor del Bosque Nacional Coronado, el Sr. Tipplesonnic admitió por escrito que su departamento no se había molestado en investigar los puntos de vista apaches sobre la planeada construcción del observatorio, a excepción de una carta enviada al Consejo Tribal para anunciar el comienzo de la construcción, aunque sabía que muchos apaches querían mantener la sacralidad del Mte. Graham. En el segundo caso, el Servicio Forestal de los EEUU había escrito a la tribu de San Carlos el 1 de diciembre de 1993, para discutir el emplazamiento final del LBT, pero el 7 de diciembre ya había comenzado a cortar más de 500 árboles antiguos, fuera del área prevista por una legislación especial.

A fines de 1995, la Coalición por la Supervivencia Apache informó que el 12 de diciembre de 1995, el congresal Jim Kolbe del Congreso de los EEUU, logró suplantear una cláusula adicional, destinada a ayudar a prevenir el SIDA en la comunidad de los nativos americanos, por otra que otorga exención al telescopio de la Universidad de Arizona con respecto a toda la legislación cultural y ecológica.

Pero la posición del Consejo Tribal Apache de San Carlos (SCATC) parece clara, tal como se expresa en la resolución del 13 de junio de 1995: «se resuelve: que el SCATC respeta las creencias espirituales de todos sus miembros tribales», y «que nosotros ... por la presente rescindimos sinceramente la resolución Tribal JY-93-130, y por lo tanto declaramos nuestra oposición al proyecto de telescopio MGIO.»

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Leonard Peltier

Leonard Peltier sigue en prisión. Fue sentenciado a dos sentencias consecutivas de cadena perpetua por el asesinato de dos agentes del FBI durante un enfrentamiento en la Reserva de Pine Ridge, en Dakota del Sur, en 1977. Sin embargo, fue condenado en base a pruebas falsas, presentadas por el FBI, y un falso testimonio (ver también documento IWGIA N° 62).

Los abogados de Peltier están en posesión de documentos que habían estado clasificados como secretos hasta hace poco y están estudiando nuevas posibilidades legales.

Además de esto, Leonard Peltier asistió a una nueva audiencia relativa a una libertad bajo palabra. Fue muy exitosa y éste impresionó a la comisión con sus argumentos sobre el trabajo teórico que realizó relativo a programas para los ancianos y los niños. El testigo del FBI impresionó a la comisión en forma distinta cuando declaró: «los agentes fueron asesinados por alguien. Si no lo hizo él, lo hizo otro.» ¡Leonard Peltier ha estado 20 años en prisión en base a una declaración de este tipo! Generalmente, la Comisión de Libertad bajo Palabra toma sus decisiones pocos días después de la audiencia. En el caso Peltier, la comisión solicitó pruebas adicionales.

«La vista de diciembre de 1995 condujo a un re-examen del examinador de la vista de las cuestiones, que excede el ámbito de una vista provisional, incluyendo las conclusiones previas realizadas por la Comisión, de que Ud. participó en la ejecución de dos FBI agentes. El propósito limitado de una vista provisional según el Código 28 de Reglamentación Federal 2.4 es determinar si las circunstancias han cambiado desde la última vista como para justificar una decisión diferente.

La Comisión declina volver a abrir su caso para re-examinar su papel en la ofensa ya que no hay ningún cambio significativo con respecto a la información en esta cuestión a partir de la información presentada en su última consideración de libertad provisional. No ha dado un recuento factual, específico de sus acciones al tiempo de la ofensa que sea coherente con el veredicto culpable del jurado.

Considerando la teoría de su participación en los crímenes perfilada por el gobierno en el juicio, la Comisión no encuentra otra base razonable para hallar una explicación de los hechos acerca de la ejecución de los agentes que la versión presentada por el gobierno. Ver Código 28 de Reglamentación Federal S2.19C. El gobierno no ha cambiado su posición de que la evidencia circunstancial

presentada en su juicio estableció su complicidad en las ejecuciones de los agentes. La evidencia circunstancial descrita en varias de las decisiones del Octavo Circuito al rechazar sus apelaciones apoya las conclusiones previas de que Ud. participó en las ejecuciones. Una consideración total de su caso no será apropiada hasta la reconsideración correspondiente a los 15 años. Procedimientos de la Apelación: La decisión precedente no es apelable.»

(3/ 18/ 96 Comisionados Nacionales, Documento Número DNJ OJ Ref. pg.101)

La decisión precedente es un ejemplo claro y escandaloso de un completo desprecio por la justicia. La USPC (Comisión de Libertad Provisional de los EEUU) declara en esta decisión que independientemente de la información presentada por el funcionario encargado de la libertad que presidía la vista del 11 de diciembre, y a pesar de la favorable recomendación que ese funcionario hizo como consecuencia de las claras concesiones del gobierno relativas a que no existe ninguna evidencia contra Peltier, y que no tienen la mínima idea acerca de quien es el culpable de las muertes de sus agentes, que es más conveniente mantener a un inocente en prisión que tratar con la controversia e impropiedad que puedan surgir con respecto a este caso. Van incluso tan lejos como para declarar que Leonard nunca ha dado un relato factual «coherente con el veredicto de culpa del jurado.»

¿Cómo puede un hombre inocente hacer un relato factual de culpa cuando no es responsable?! En lugar de enfrentar los HECHOS del encarcelamiento ultrajante de Peltier, la USPC prefiere retar a sus propios empleados por extralimitarse en vez de alabarles por su conciencia social. Todavía un misterio más: el Funcionario encargado de la Libertad Provisional quien hizo la recomendación favorable ha perdido su cargo dentro de la USPC.

Después de la audiencia, Leonard ha sido trasladado de Levenworth a Oklahoma, a una unidad de transferencia. No queda claro porqué y cuándo sería transferido, pero una ola de cartas y faxes de protesta convencieron al Departamento de Transferencia de Reclusos a hacer algo para impedir el desprestigio. En el momento de escribir ésto, Leonard Peltier está encarcelado en Springfield, Kansas, donde recibe atención médica para la vista, la cual le ha sido negada durante muchos años.

El gobierno canadiense no ha terminado aun el examen de la extradición de Leonard Peltier de Canadá a los EEUU.

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Big Mountain Action Group, Munich (Lubicon, Apache)

Lubicon Lake Indian Nation, Native List

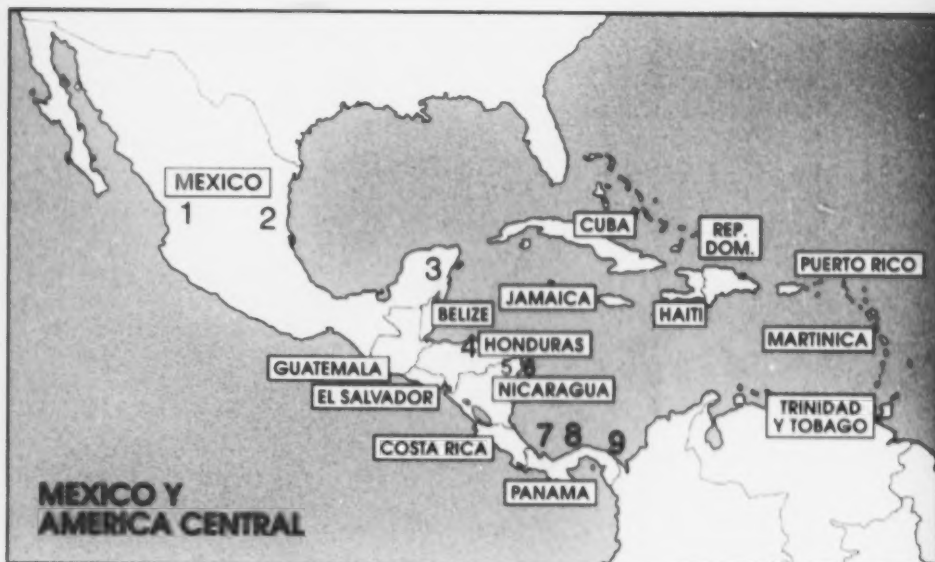
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1. Hichol
2. Nahuatl
3. Maya
4. Rama
5. Sumu
6. Miskito
7. Kuna
8. Guaymí
9. Embera-Waunan

MÉXICO Y AMÉRICA CENTRAL

MÉXICO

Chiapas-urgente necesidad de recursos en las comunidades indígenas

Gran parte del mundo, incluso grandes partes de México, parecen estar bajo la impresión de que el conflicto entre los Zapatistas y las autoridades mexicanas está al borde de solucionarse. En realidad, ésta es la imagen que ha sido proyectada por gran parte de la prensa mexicana y activamente vendida al extranjero por el núcleo diplomático mexicano, con su larga experiencia como artista cosmético de un país con profundas desigualdades e injusticias. Sin embargo, quienes hemos estado cerca de la situación en Chiapas durante muchos años vemos una realidad muy diferente - nunca la situación de los Zapatistas y los cientos de miles de indios y campesinos que ellos en gran medida representan, ha sido tan desesperante, nunca el gobierno ha mostrado una actitud más intransigente y despótica frente a las demandas indígenas y nunca la paz, la democracia y la prosperidad para la mayoría pareció tan fuera de alcance.

Tres problemas fundamentales contribuyen a la inestabilidad presente:

1. El gobierno mexicano ahora desdeña abiertamente el proceso de negociaciones con los representantes Zapatistas. Durante las más recientes conversaciones, los negociadores del gobierno llegaron en ropas de fin de semana, se negaron a responder a las preguntas Zapatistas o a hacer cualquier tipo de declaración y se ponían a leer o se dedicaban a otras actividades (se dice que un representante del gobierno estudia japonés en la mesa de negociaciones) mientras los delegados Zapatistas hablaban, en una actitud de descarada falta de respeto y provocación.
2. La presencia del ejército y las tácticas de «guerra de baja intensidad» (que muchos observadores alegan es la tarjeta de visita de los asesores militares de los EE.UU.) están aumentando en la selva Lacandona y en otras áreas donde se sabe que los Zapatistas gozan de base social. La intimidación y ahora, bajo el

pretexto de buscar «plantaciones de marihuana», la intrusión directa del ejército en áreas de acceso restringido según los términos de la negociación.

3. Durante los últimos dos años se han puesto a disposición fondos para el desarrollo económico para premiar sólo a aquellas comunidades o cooperativas que colaboran totalmente con el gobierno, sobre todo mediante la incorporación a las organizaciones políticas controladas por el PRI. Las cooperativas independientes y especialmente las comunidades que expresaron inclinaciones «Zapatistas», (por ejemplo durante las últimas elecciones parlamentarias) son dejadas de lado - ¡en algunos casos se han clausurado incluso sus escuelas!

De todas las tácticas de mano dura utilizadas para presionar a los indios, el último punto es el más preocupante porque indica claramente que el gobierno se ha negado a cambiar actitudes fundamentales que, antes que nada, son directamente responsable del levantamiento. Poco después del fin de los combates en 1994, Época, un semanario nacional de noticias, publicó algunas cifras reveladoras en torno al desarrollo agrícola de Chiapas durante los años previos. Informaron que incluso antes de los años del gobierno de Salinas, Chiapas había sido identificado por las agencias internacionales y federales como una bomba de tiempo social. Se puso progresivamente más y más dinero a disposición de las autoridades locales para el desarrollo económico. Durante el gobierno de Salinas, Chiapas era el destinatario mayor de los fondos asignados por el gobierno federal para programas socioeconómicos.

Epoca señaló, sin embargo, que un análisis de los programas realmente llevados a cabo durante esos años revelan una paradoja curiosa: de los fondos puestos a disposición para las diferentes áreas de desarrollo agrícola en Chiapas durante el gobierno de Salinas se movilizaron sólo el 15% realmente. El resto quedó en el banco, ni siquiera fue robado por funcionarios corruptos o absorbido por la burocracia local. La razón del no gasto de los fondos disponible es que esos fondos fueron otorgados de la misma manera como se expresó antes: condicionados a la plena cooperación política con el gobierno y su partido oficial el PRI. Pero los tiempos habían cambiado; muchos indios se habían desencantado de las organizaciones oficiales y habían formado sus propias cooperativas, tratando de tomar el control directo de sus actividades económicas sin la carga

de la tiranía política. El gobierno local (finalmente con apoyo federal) se negó a dejar que los recursos financieros llegaran a las manos de estos independientes. Viendo bloqueada su libertad económica, y enfrentando una creciente represión directa de la policía local estatal y grupos armados privados, muchos indígenas decidieron que los Zapatistas tenían razón- la única posibilidad era la rebelión armada.

Este terror de parte de los gobiernos locales y federales de dejar que los indígenas controlen su propio desarrollo económico al parecer continúa obnubilando su visión política. En 1995 el gobierno empezó negociaciones con un grupo de más de 30 cooperativas indígenas independientes que habían formado una unión conocida como la Asamblea Estatal Democrática del Pueblo de Chiapas (AEDPCh). Esta organización representaba, entre otros, a la mayoría de los grupos que habían ocupado tierras disputadas desde el levantamiento. Aunque apoyaron públicamente las demandas Zapatistas por reformas políticas y sociales, arriesgaron el desagrado Zapatista al entrar en tratativas directas con el gobierno federal. De hecho, el comité central Zapatista al principio criticó esta decisión pero más tarde se retractó, asumiendo una posición más tolerante. Después de meses de duro trabajo y negociación con el representante federal, la AEDPCh y sus consejeros presentaron al gobierno un plan y pidieron apoyo financiero.

El plan implicaba un proyecto integral de desarrollo sustentable regional basado en una estrategia de promover una selección de cosechas de exportación (tal como café orgánico), ecoturismo basado en la comunidad y seguridad alimenticia regional. Incluía un plan para la indemnización de demandantes privados de tierras indias. Este plan demostró claramente que las organizaciones indígenas tenían la capacidad de comenzar un proceso creativo de desarrollo sustentable capaz de generar empleo local, proteger el medio ambiente, fortificar y diversificar la economía del estado y participar con buen éxito en el mercado mundial. La respuesta del gobierno llegó como un cubo de agua helada. Sólo se aprobaron unos pocos proyectos aislados, de baja prioridad (para comunidades que habían probado ser más flexible a los deseos del gobierno)- un paquete de animales de corral aquí, un criadero de árboles frutales allí, un criadero de cerdos en otra parte. Los proyectos integradores más importantes, que habrían dado coherencia económica a la totalidad y habrían permitido a la organización indígena operar como una especie de «incubadora» de empresas de propie-

dad local, no fueron aprobados. La AEDPCh llamó a la respuesta un «insulto» y se negó a continuar las discusiones, reconociendo públicamente que los Zapatistas tenían razón en su crítica.

Con esta experiencia quedó claro que el gobierno no soltaría bajo ninguna circunstancia su férreo control político absoluto de todos los procesos de desarrollo, el cual es el factor principal que contiene actualmente el progreso económico de la región. Hasta la fecha, los fondos, tal como han sido otorgados, han ido a parar a organizaciones totalmente oficiales tal como la llamada «ARIC oficial». Las cooperativas o comunidades independientes son negadas cualquier género de ayuda y usualmente se localizan tropas cerca de ellas. Miembros de «ARIC oficial» se acercan a los individuos y les ofrecen sumas de dinero por cambiar su lealtad a la organización oficial, una situación que ha provocado considerables conflictos dentro de las comunidades en la medida en que la situación económica es cada vez más desesperada y la presión de baja intensidad del ejército aumenta.

Lamentablemente, existen, actualmente, pocas alternativas para las organizaciones independientes. Las conversaciones con los Zapatistas están detenidas y parece improbable que brinden un mecanismo alternativo de ayuda económica para el desarrollo y la capacitación y la asistencia técnica requerida. El gobierno ha bloqueado en gran medida a las actividades de las organizaciones no gubernamentales. En un comunicado de prensa reciente el «ARIC oficial» anunció que solicitaría la expulsión de las ONG «extranjeras» de la región por causar «divisiones en las comunidades». (¿Es una táctica muy común del PRI acusar a la oposición de lo que en realidad está haciendo el PRI!). Naturalmente, las ONG «extranjeras» (en realidad ONG mexicanas que han logrado acceder a los muy escasos recursos extranjeros, principalmente de Europa) no sólo sirven como testimonio de las tácticas de presión del gobierno sino teóricamente podrían ofrecer una alternativa al monopolio gubernamental sobre los recursos para el desarrollo.

Las agencias financieras internacionales, a pesar de nobles declaraciones en contrario, no parecen ser más sensibles a la situación ni parecen interesadas en promover un desarrollo económico democrático, localmente controlado. La infame Corporación Financiera Internacional del Banco Mundial recientemente anunció inversiones en Chiapas. Aunque basta sólo una mirada superficial a los proyectos propuestos para inducir un sentido de náusea. El

Fondo Chiapas, que el CFI dice apoyará ahora, promoverá plantaciones de caucho, palma oleaginosa, y bambú en la selva tropical. Es difícil de creer, incluso considerando que el CFI es el ala del sector privado del Banco Mundial, que alguien pueda discutir seriamente estos proyectos para Chiapas, dada la situación social y política y la urgente necesidad de encontrar pautas de desarrollo que conserven los increíbles tesoros biológicos de la Selva Lacandona. Los cultivos como el del caucho ocupan tierras de bosques vírgenes; los indios se pondrían en deuda para convertirse, esencialmente, en trabajadores de un complejo agroindustrial en el cual su única función sería proveer materias primas baratas a las corporaciones quienes recibirían todo el valor agregado. Proyectos como éstos conjuran las visiones de una futura Selva Lacandona convertida en un triste campo de concentración, vigilado por el ejército, donde la selva ha sido reemplazada por monocultivos y los hombres y mujeres libres se hayan convertido en prisioneros de otro sistema de usurpación de sus recursos y riquezas, dejándolos en las esferas más bajas de la sociedad.

Estos proyectos también demuestran una visión miope de los problemas de México que parecen ser bastante generalizada en círculos oficiales. Desde la entrada a NAFTA y al GATT, la producción mexicana de alimentos ha disminuido violentamente. El país ahora gasta una suma en dólares equivalente a sus exportaciones totales de petróleo en la importación de alimentos, incluso en artículos de primera necesidad tan fundamentales como el trigo. México enfrenta una importación de hasta 9.000.000 de toneladas de trigo, principalmente de los EE. UU., durante 1996. Éste es el 75% de sus niveles históricos de producción anual en años recientes. Sin embargo, «Sparks Commodities» anunció recientemente que las reservas de trigo de los EE.UU son las más bajas de hace 50 años y que el gobierno de Clinton podría verse forzado a embargar las exportaciones de granos de los EE.UU. más adelante, en el transcurso de este año. ¿No hay nadie en el gobierno mexicano o en el Banco Mundial que se pregunte cómo México se alimentará en el futuro cercano si estas predicciones se hacen realidad? ¿Se le ha ocurrido a alguien que los millones de indígenas y campesinos que todavía cultivan la tierra, a pesar de los años de abandono oficial, represión y desdén, podrían ser parte de la solución?

Es urgente que las empresas indígenas y comunidades de Chiapas, independientemente de sus afiliaciones políticas, tengan acceso

a los recursos financieros, reciban instrucción y asistencia técnica adecuadas y sean autorizados a tomar el desarrollo de su patria en sus propias manos. Es la única manera de preservar los recursos del bosque tropical y es la única esperanza de paz, prosperidad y democracia para la región.

El reto de las autonomías

En el transcurso del año 1995, México se convirtió en una inmensa mesa de debate, en torno a las grandes líneas de lo que podría llegar a ser un proyecto nacional de defensa y respeto de los grupos indios mexicanos. En ese gigantesco movimiento de reflexión, intercambio y concertación, participaron delegados de los grupos indígenas mexicanos, representantes de organizaciones democráticas de la sociedad civil, intelectuales e universitarios especializados en el tema de debate y funcionarios del gobierno mexicano. Las reuniones de intercambio y deliberación tuvieron su sede en el pueblo indígena *maya tzotzil* de San Andrés Larrainzar, en el convulsionado estado de Chiapas. Los delegados del EZLN participaron constantemente en las reuniones de trabajo.

Obviamente, el tema central de la mesa giró en torno al urgente estudio y a la necesaria legislación y aplicación de nuevos artículos referentes al reconocimiento del principio de autonomía para los pueblos indígenas de México. Si bien todos los participantes estuvieron de acuerdo en denunciar las carencias o bien las aberraciones existentes en la Carta Magna en cuanto a la falta de respeto de las instituciones indias, no alcanzó la misma unanimidad la propuesta de autonomía, quizás por la falta de definición de criterios precisos al respecto, y sobre todo por la magnitud de la problemática que abarca, la diversidad de alternativas que ofrece y la multiplicidad de sectores sociales que afectaría o beneficiaría.

De hecho no cabe duda a nadie que resulta urgente legislar sobre la creación de nuevas formas de participación social y política de los grupos indígenas, sobre la instauración de espacios y canales de representación de las etnias mexicanas, dentro del aparato legislativo federal. A todos nos parece imprescindible que las formas de autoridad, los modelos de gestión comunitaria y los órganos de toma de decisión de todas esas sociedades sean reconocidos, respetados y que sus acuerdos sean acatados por la administración política regional o federal. Sabemos que la autonomía no significa el desmembramiento territorial o un principio de secesión que desembo-

que en una confederación de pequeños estados-nación, enfrascados en la búsqueda de alternativas de sobrevivencia atomizadas.

Pero muchos tememos que una búsqueda frenética y quizás ilusoria de diferenciación etno-cultural, sostenida por la implementación de un nuevo proyecto de jurisdicción comunitaria (a nivel municipal, étnico o bien regional) pueda desembocar en la proliferación de ciertas aberraciones que pondrían en estado de peligro virtual a los grupos minoritarios de dichas comunidades (mujeres, niños, disidentes políticos, iglesias minoritarias, etc.), sin que pudieran intervenir los órganos o los sectores previstos por la Constitución para velar por el respeto de los derechos fundamentales de todo ciudadano.

Porque las perversiones inherentes al sistema político mexicano también infiltraron los espacios y modelos de gestión de poder de los grupos étnicos y porque no todo es ejemplo de democracia en dichos grupos, se requiere de mucha cautela a la hora de legislar sobre la adopción indiscriminada de las instituciones indígenas y del derecho indio como parte de nuestra constitución. No podemos ciegamente entregar un sector indefenso de la población a la aplicación de ciertas instituciones, sin sopesar cuidadosamente las consecuencias que pudieran llegar a tener en cuanto al respeto de sus derechos fundamentales. En Chiapas, son las mismas mujeres tzotziles quienes se quejan de no tener derecho a heredar la tierra y los bienes de su padre o esposo, en razón de supuestos atavismos institucionales. Las mujeres *tzeltales* han denunciado en repetidas ocasiones los métodos de coerción familiar usados en su contra para obligarlas a contraer un matrimonio no deseado. El respeto tradicional al estatus de los niños en el universo social indígena se encuentra frecuentemente maniatado por actitudes autoritarias que lesionan los intereses o aspiraciones legítimas de los pequeños a estudiar o elegir otros tipos de actividades acordes con sus incentivos personales.

Las expulsiones y otras formas todavía más patéticas de represión usadas en contra de sectores minoritarios de población, han subrayado en múltiples ocasiones las aberraciones de supuestas instituciones atávicas, más cercanas a los intereses de los caciques indígenas que a la legítima aplicación del derecho fundamental de los pueblos a vivir felizmente y de acuerdo a sus costumbres.

GUATEMALA

«La historia es circular, como circular es el tiempo. Existen ciclos buenos y ciclos malos. Los ciclos de la historia del pueblo maya están marcados por períodos de más o menos quinientos años cada uno... como está escrito»

Así hablan los ancianos *mayas* para explicar los fenómenos que están ocurriendo en la tierra del maíz. De esa forma explican que el ciclo malo más reciente comenzó con la invasión española al continente. También explican que el fin de esa etapa negativa y el comienzo del renacer de los mayas lo marcó el otorgamiento del Premio Nobel de la Paz a la lidereza *k'iche'*, Rigoberta Menchú Tum en 1992, quinientos años después.

Lo que ha venido ocurriendo desde entonces es alentador para los pueblos mayas. El Decenio declarado por las Naciones Unidas, un proceso de paz que le permite al país volver los ojos hacia esas inmensas mayoría empobrecidas y el surgimiento de nuevas y variadas formas de organización indígena que poco a poco van ocupando el sitio que les corresponde en el devenir de Guatemala.

En ese contexto, cuatro sucesos marcaron nuevos avances para los indígenas de Guatemala en 1995 y lo que va del 96: El Acuerdo sobre Identidad y Derechos de los Pueblos Indígenas, el primer triunfo electoral en 500 años de un *k'iche'* en la segunda ciudad del país, que lo convierte en el primer alcalde indígena de ese importante municipio; el acceso al Congreso de la República por la vía electoral de varios dirigentes indígenas y la ratificación del Convenio 169 de la Organización Internacional del Trabajo, OIT, por parte del Congreso Guatemalteco a comienzos de 1996.

Si bien es cierto que logros y avances de los mayas se han dado en diferentes campos y en varias dimensiones, también lo es que esos cuatro hechos marcan hitos importantes en la historia actual del país.

Guatemala está viviendo un proceso de negociaciones que busca poner fin a uno de los conflictos más antiguos de América Latina. Durante más de treinta años la guerrilla guatemalteca buscó llegar al poder por la vía armada, ofreciendo a la población en general un sistema más justo.

A esa lucha los indígenas se incorporaron decididamente en la década de los ochenta, no obstante no ser reconocidos con el estatus de pueblos, por una ideología en la que sólo cabían las clases sociales. Dentro de ese concepto ellos eran parte de la clase opri-

mida y explotada, en una interpretación simplista de la realidad multiétnica y pluricultural del país.

De igual manera el ejército engrosó sus filas, a través del servicio militar obligatorio, con cientos de miles de indígenas que defendieron un sistema que nunca los tuvo en cuenta.

La dirección de esa guerra en ambos bandos, estuvo a cargo de comandantes y generales no indígenas (o ladinos como se les llama en Guatemala a los mestizos y a los blancos).

Las negociaciones de paz entre guerrilla y ejército, permitió a los indígenas hacer propuestas a través de la Asamblea de la Sociedad Civil, creada para darle participación a las organizaciones civiles en esas negociaciones. Por primera vez los mayas de diferentes étnias, agrupados en la Coordinadora de Organizaciones del Pueblo Maya -COMPMAGUA- tuvieron la oportunidad de juntarse y de plantear propuestas que favorecían al pueblo maya en su conjunto. Sus planteamientos permitieron dar forma, en la mesa de negociaciones, a un acuerdo que reconoce su identidad y sus derechos.

En él se concede el derecho a la tierra, al uso de la lengua, e incluso a la oficialización de éstas en las zonas mayahablantes; al uso del traje y al respeto de sus costumbres milenarias, dentro de las que se destaca el ejercicio de su espiritualidad, proscrita desde la llegada de los europeos al continente.

También se habla en el mismo del respeto al derecho consuetudinario en las zona en donde las normas de la comunidad se mantienen por encima del derecho positivo.

Este acuerdo se constituye actualmente en la más importante bandera de desarrollo y de avance con que cuentan los pueblos indígenas de Guatemala. Los puntos contemplados allí se convertirán en leyes al firmarse la paz e implementarse los acuerdos.

Quetzaltenango es la segunda ciudad en importancia de Guatemala. En ella las contradicciones étnicas y culturales se constituyen en un espejo de lo que acontece a nivel nacional. Con una población indígena de cerca del 60 por ciento, los niveles de discriminación ahí son bien marcados.

La ciudad fue gobernada desde tiempos de la colonia por ladinos y todo intento de éstos por aspirar al gobierno municipal era visto con desprecio y burla. La presión era tal, que postularse como candidato a alcalde significaba para el indígena convertirse en el hazmerreír de la comarca.

De esta manera el triunfo de Rigoberto Queme Chay, profesional k'iche' que abanderando al comité cívico Xel-Jú, logró vencer la poderosa maquinaria de los partidos políticos, cobró una trascendencia que rebasó los límites de la ciudad y se convirtió en un alerta de lo que es posible lograr en otras latitudes nacionales.

El Xel-Jú, cuyo nombre es el mismo con el que se denomina a la ciudad en el idioma k'che's, desarrolló una lucha de 25 años para lograr este triunfo, constituyéndose en uno de los mayores logros recientes del movimiento indígena nacional.

De igual manera, al Congreso de la República llegaron varios líderes mayas de reconocida trascendencia tanto nacional, como internacional. Rosalina Tuyuc y Manuela Alvarado, son quizás las mejores representantes de ellos.

Dirigentes como Rosalina Tuyuc, que siempre fueron críticos del sistema, abanderando luchas, como la abolición del servicio militar forzoso y el ejercicio de la objeción de conciencia, hoy tienen la oportunidad de proponer y aprobar leyes tendientes a ampliar los espacios de la todavía frágil democracia guatemalteca.

Aunque existieron anteriormente representantes indígenas en el Congreso por los partidos tradicionales, nunca como ahora éstos tienen una posición tan clara en favor de sus propios intereses y la misión que les corresponde desarrollar en favor de su causa.

Luego de varios años de insistencia, el Congreso de la República, aprobó con algunas enmiendas el Convenio 169 de OIT. Con este hecho, los mayas cuentan ahora con el primer instrumento jurídico vigente que toca uno de los temas más sensibles del país, al reconocer los derechos de éstos pueblos sobre la tierra que tradicionalmente han ocupado.

El problema de la tierra ha sido un tema intocable. Hablar de reforma agraria en el país era casi un delito hasta hace muy poco. La razón obedece a que los grandes terratenientes forjaron su fortuna sobre la base del despojo de la tierra a las poblaciones indígenas, a las que fueron desplazando a los lugares menos productivos y poco a poco los fueron asimilando como mano de obra barata.

En Guatemala puede darse el caso de tierras que están legalmente registradas legalmente a nombre de diferentes propietarios, los cuales alegan ser los legítimos dueños. Esto sucedió luego de que los dictadores de turno pagaran los favores de sus servidores otorgando títulos sobre tierras arrebatadas a sus adversarios, quienes a

su vez se las habían titulado a pesar de ser propiedad de las comunidades indígenas que allí vivían.

El problema de la propiedad de la tierra se convirtió así en uno de los temas sustantivos de las negociaciones de paz entre el gobierno y la guerrilla, por ser ese uno de los principales focos generadores de violencia.

Y aunque la Constitución Nacional reconoce muchos más derechos que los contemplados en el Convenio 169, el mismo permite ejercer acciones de inmediato, lo que no permite la Constitución, dado que la misma establece que esos derechos deberán ser normados por leyes que a la fecha no se han escrito.

Las organizaciones mayas siguen surgiendo. Ahora afloran organizaciones de sacerdotes mayas, de mujeres, de alcaldes etc. Nuevos medios de comunicación se publican en idiomas mayas siguiendo el ejemplo del semanario *El Regional*, pionero desde 1991 en utilizar los idiomas indígenas en los periódicos. Una agencia maya de noticias, un suplemento en uno de los grandes periódicos nacionales y algunos pequeños, pero significativos medios locales son los síntomas de otra batalla que los mayas libran por la apertura de espacios de comunicación que les permitan expresarse.

Con los anteriores sucesos, los mayas de Guatemala empiezan a recorrer con pie seguro ese largo camino, que según la leyenda deberá conducirlos por quinientos años de éxitos.

HONDURAS

El 80% de las llamadas áreas protegidas de América Central y del Sur, están habitadas por poblaciones indígenas, las cuales están sometidas a diferentes tipos de restricciones, especialmente sobre sus formas tradicionales de producción. En Honduras el gobierno ha decretado la formación de dos Parques Nacionales en el área donde habitan los *garifúnas*. Se trata de Cayos Cochinos, un archipiélago insular compuesto por 18 islotes y el Parque Punta Sul, en la que habitan cinco comunidades garifunas. Todavía éstas no han sido desalojadas pero se teme que su expulsión sean inminente. El Consejo Asesor Hondureño para el Desarrollo de las Etnias Autóctonas se manifestó al respecto de la siguiente manera. «No estamos en contra de la protección del medio ambiente y los recursos naturales y esto es evidente porque en la actualidad sólo en las zonas que habitan los pueblos indígenas y negros en Hondu-

ras, existen recursos naturales sin haber sido explotados indiscriminadamente, pero nos parece que es una violación a los derechos humanos que cualquier gobierno decreta leyes para proteger el medio ambiente sin contar con la participación de los pueblos que han habitado históricamente esos territorios».

NICARAGUA

Los pueblos indígenas de la Costa Atlántica de Nicaragua luchan por defender sus tierras y territorios contra la constante invasión de la colonización agraria y de los intereses económicos. Cada año la colonización agraria se expande gradualmente a través del país, introduciéndose en las tierras de los *miskitu* y de los *sumu*. Las compañías madereras, como SOLCARSA, MEDENSA y otras empresas comerciales, están interesadas en los recursos forestales indígenas y ofrecen negocios a comunidades empobrecidas, tales como Yulu, Sukatpin, Kligna, Miguel Bikan y otras innumerables comunidades, que las podrían despojar de sus recursos. Aquellos que se niegan, se enfrentan a la amenaza constante de la explotación maderera ilegal, ahora endémica en todas partes de las últimas áreas forestales de la Costa Atlántica.

Desde que terminó la guerra hace diez años, la rehabilitación de las comunidades indígenas ha sido lenta y difícil. Las comunidades de Río Coco enfrentan problemas provenientes de varias direcciones. Comunidades como la de Andrés todavía están minadas y el ejército se queja de que no tiene recursos para limpiar el área. Este año un maestro de la comunidad perdió su pie y varias cabezas de ganado fueron muertas por las minas. Además, las comunidades dependen para su supervivencia del uso de sus tierras tradicionales en ambos lados del río Coco que limita con Honduras. Las comunidades están ubicadas en el lado nicaragüense y sus cultivos están en el lado hondureño. Hasta el año pasado, los miskitu del Coco tenían que pagar un impuesto del 10 por ciento sobre todos los productos cultivados al ejército hondureño; en 1996 este impuesto se elevó al 20 por ciento. Esta extorsión ocurre dentro del contexto de una desecación gradual del río como resultado de la sobre explotación de la madera en las nacientes del río.

Las estructuras de autonomía regional de la costa Atlántica dan lugar a la participación de los pueblos indígenas y diferentes grupos políticos miskitu han logrado asegurar que sus intereses sean repre-

sentados. El cambio gubernamental de dos años, en mayo de 1996, llevó al cambio de la alianza entre el Frente Sandinista y Yatama bajo el gobernador Marcos Hoppington, a otra liderada por Steadman Fagoth. A pesar de la representación política indígena a nivel regional, el problema principal para los gobiernos regionales de la Costa Atlántica norte y sur es obtener los recursos necesarios para llevar adelante una autonomía que refleje las necesidades y deseos de todos en el área.

1996 es año de elecciones generales y existe la preocupación de que si el frente del ala derecha, liderado por el actual Alcalde de Managua, gana, un fuerte régimen neo-liberal conducirá a aún más sufrimientos por parte de los pueblos indígenas del área. Esto significará un aumento de la explotación de los bosques que las comunidades necesitan para su subsistencia básica.

PANAMÁ

En Panamá continúa sin resolverse el conflicto por los límites entre la Comarca Kuna Yala y su límite con la provincia de Colón. Actualmente los límites entre ambas regiones están contemplados en el artículo 21 de la ley del 16 de febrero de 1953. Estos van desde la desembocadura del río Playa Colorada, en el Mar Caribe, y prosiguen en línea imaginaria hacia el sur, hasta encontrar el río Mandinga. De allí continúan aguas arriba, hasta donde nace este río, en la cima del Cerro Brewster. Pero los *kunas* nunca han reconocido este límite ya que deja de lado una importante parte del territorio kuna, área en la que habitan una serie de comunidades indígenas. Justamente en este espacio en conflicto, el gobierno viene impulsando un centro turístico a cargo de la empresa Desarrollo Turístico Mandinga S.A. lo que ha provocado las protestas de los kunas.

El 10 de marzo de 1996, en la reunión mantenida por el Congreso General Kuna en Achutupu, se hizo conocer una declaración en la que los indígenas «expresan su total repudio a la política anti-indígena del gobierno panameño» fundamentalmente por la falta de reconocimiento del gobierno a los legítimos límites de sus territorios. Mientras tanto y con la cooperación internacional, los kunas continúan realizando la demarcación física de Kuna Yala aunque todavía no se ha logrado que estos trabajos tengan el reconocimiento oficial.



Los kunas continúan con la demarcación de sus territorios tradicionales, Panamá. Foto: Alejandro Parellada

Otro problema grave que enfrentan los pueblos indígenas de Panamá es el entusiasmo del gobierno en otorgar concesiones mineras. En la actualidad son más de 140 los permisos para extraer minerales, muchos de los cuales se encuentran en territorios indígenas. En este sentido el Congreso General Kuna expresó su pesar por «las facilidades de acceso que se dan, por una parte, a empresas extranjeras sobre los bienes y recursos de la república y de los pueblos indígenas de Panamá y el desprecio y humillaciones que, por otra parte, recibimos los originarios habitantes de este país. De qué otra forma podemos pensar y sentir los kunas cuando los medios de comunicación dan a conocer que se han otorgado concesiones mineras en nuestra comarca, a pesar de que hemos cuidado y vivido, por milenios, en estas tierras». Denunciaron también en forma específica a la empresa canadiense Western Keltic Mines, INC. de llevar a cabo una política de penetración con el propósito de «dividir, minar y debilitar las instituciones políticas del pueblo kuna». Esta empresa está dispuesta a iniciar la explotación de cinco concesiones obtenidas en territorio kuna.

Los kunas acusan al gobierno de contradecir el Convenio de la Organización Internacional de Trabajo y la Constitución Nacional

que en sus artículos 5, 86 y 123 protege los derechos de los pueblos indígenas a regímenes especiales, a defender su identidad étnica y cultural y a garantizar la propiedad colectiva de sus territorios.

El 13 de febrero de 1996, el Consejo de Ministros aprobó el contrato entre la Cooperación Minera Cerro Colorado (CODEMIN) y la Sociedad de Panacobre, SA para la explotación y exploración de yacimientos minerales ubicados en territorios indígenas. Se trata principalmente de la extracción de cobre ya que se considera que esta zona es una de las más ricas del mundo. Sin embargo, el pueblo *ngobe-buglé*, que es uno de los principales afectados, no ha tenido ninguna participación en esta decisión. Si bien el contrato es multimillonario, tal como los *ngobe-buglés* lo sospechaban, las ganancias irán directamente a las empresas mineras y al Estado, mientras siguen ignorando a los verdaderos dueños de esas tierras. Frente a esta situación, los indígenas continúan organizándose no sólo contra las actividades mineras sino que también a favor de la creación de su propia Comarca.



- | | | |
|-----------------|------------------|-------------------|
| 1. Yucpa | 7. Candoshi | 13. Enxet |
| 2. Yanomami | 8. Asháninka | 14. Totobiegosode |
| 3. Embera-Katio | 9. Guaraní | 15. Wichi |
| 4. Huarani | 10. Macuxi | 16. Toba |
| 5. Shuar | 11. Parakana | 17. Kolla |
| 6. Aguaruna | 12. Urubu-Kaapor | 18. Mapuche |

AMÉRICA DEL SUR

VENEZUELA

Han transcurrido ya doce años desde que Venezuela aprobó un decreto que incorpora el Convenio 107 de la OIT sobre las Poblaciones Indígenas y Tribales a la legislación nacional. No obstante, los esfuerzos para llevar a la práctica esta legislación han sido mínimos. Especialmente en los últimos años, los pueblos indígenas han sufrido un tremendo aumento en la presión sobre sus tierras por actividades mineras, madereras y de infraestructuras dirigidas por el Estado (e ilegales) y, más recientemente, las actividades de «ecoturismo». No obstante, pese a la legislación gubernamental, las autoridades han hecho poco o nada para proteger los intereses indígenas.

Por el contrario, muchos departamentos gubernamentales han ignorado o negado de modo activo los derechos indígenas, en particular autorizando o fomentando la usurpación de tierras indígenas. Aunque un 72% de las comunidades indígenas siguen sin disponer de forma alguna de título de propiedad de tierras, en todas las partes de la nación donde viven comunidades indígenas hay informes detallados de invasión y de conflictos territoriales.

La colonización de tierras de los *hari* y los *yupka* por granjeros y rancheros pobres sigue ocurriendo en la Sierra de la Perija, que también ha sido abierta a grandes minas a cielo abierto. El gobierno local ha intentado entregar tierras de los *kari'na* en Monagas a terceras partes, incluso aunque los indígenas disponen de títulos coloniales de propiedad de tierras. Se ha autorizado a los ranchos a apoderarse de la mayor parte de la reserva indígena *yaruro* en Apure, mientras que un parque nacional les impide el acceso a lo que ha quedado de su territorio. Las concesiones mineras y los permisos otorgados por el Ministerio de Energía y Minas y la Corporación Venezolana de Guayana, son entregados con aparente desprecio por los pueblos indígenas. Las concesiones de tala de bosques siguen siendo otorgadas en todo el Estado de Bolívar, en

las tierras habitadas por los indígenas *pemon*, *akawaio* (*kapon*), *karina* y *arawak* (*lokono*). Por supuesto, el Servicio Forestal gubernamental carece de política alguna para los pueblos indígenas. Las concesiones forestales también están socavando los modos de vida de los *warao*, del delta Amacuro.

En Amazonas, el Estado más aislado de Venezuela, los conflictos territoriales también están aumentando. Los ranchos amenazan con eliminar a los *yabarana*, mientras que la construcción de carreteras y la colonización están fomentando la toma de tierras a lo largo del curso medio del río Orinoco, lo que provoca graves conflictos con los indígenas *piaroa* (*wotuhjeje*) y los *guahibo* (*hiwi*). La minería ilegal, gran parte de ella realizada con la connivencia de miembros de la Guardia Nacional y de políticos locales, también está extendida en las áreas indígenas. Además de esto, se han comenzado a crear campamentos de «ecoturismo» en muchas áreas, lo que lleva a graves conflictos, principalmente entre los *piaroa*.

La violencia contra los indígenas también está aumentando. La matanza de indígenas *yanomami* por mineros brasileños, en 1993, perpetrada en el río Orinoco superior, no sólo está impune sino que es probable que se produzca nuevamente. Se ha informado de incursiones mineras a través de la frontera a lo largo del límite con Brasil, desde la Neblina en el sudoeste hasta la zona superior del Caroní, en el este. Se ha informado de asesinatos de indígenas por fuerzas militares y policiales de las áreas *goajiro* (*wayuu*) y *yupka* en el noroeste del país. Se ha producido un número de ataques ulteriores contra cazadores y recolectores *cuiva* en el Estado de Apure. Las organizaciones indígenas y defensoras de los derechos humanos han observado en vano la carencia de investigación oficial sobre esos abusos.

En el área de la salud, el suministro de atención sanitaria para los pueblos indígenas de Venezuela es mínimo, situándose muy por debajo de los niveles de servicio proporcionados a otros ciudadanos. El censo indígena de 1992 reveló que el 86,8% de las comunidades indígenas carece de un dispensario clínico.

Esta carencia de cuidado sanitario ha provocado importantes problemas para los pueblos indígenas, especialmente las comunidades aisladas en zonas remotas y alejadas de los centros médicos y con relativamente poca experiencia en las enfermedades infecciosas occidentales. Se ha informado de epidemias, principalmente de malaria, de modo amplio entre los grupos *yanomami* y *sanema*

de los Estados de Bolívar y Amazonas, pero los dispensarios locales carecen incluso de recursos básicos para hacer frente a esos problemas. La tuberculosis, señalada como endémica en las áreas de Caura y Paragua a comienzos de los años ochenta, sigue sin ser tratada. Además de estos problemas, hay una evidencia creciente de contaminación por mercurio de cursos de agua, ríos y ecosistemas causada por actividades mineras incontroladas de lavaderos.

En general, la política gubernamental para los pueblos indígenas ha mostrado poca coherencia o definición. La índole muy centralizada de la mayoría de la toma de decisiones gubernamentales desde los años sesenta ha dejado relativamente poco espacio para iniciativas locales o regionales a fin de influir sobre la política nacional, la toma de decisiones en el centro ha estado aislada de las preocupaciones indígenas. Las instituciones estatales encargadas de la responsabilidad de los asuntos indígenas han estado, y siguen estando, poco dotadas, han sido políticamente marginales y tienen autoridad limitada. Desde los años setenta, la responsabilidad para asuntos indígenas se ha situado en el Departamento de Asuntos Indígenas, del Ministerio de Educación, pero este organismo no está autorizado para trabajar sobre el asunto de mayor importancia para los pueblos indígenas: las tierras.

En los últimos años las comunidades indígenas mismas han comenzado a movilizarse y organizarse en organizaciones locales, regionales y nacionales, y esto ha asegurado que los asuntos indígenas hayan comenzado a recibir muchísima más atención en los medios de comunicación nacionales.

COLOMBIA

En Colombia, el 22 de marzo de 1995 el gobierno nacional presentó a consideración del Congreso de la República el proyecto de Ley Orgánica de Ordenamiento Territorial, radicado como Proyecto de Ley Número 191. En términos generales el Proyecto de Ley no asume integralmente el carácter de entidades territoriales de la República que la Constitución otorgó a los Territorios Indígenas; trata de limitarlo a su mínima expresión y desconoce su articulación con las demás entidades territoriales en el contexto del ordenamiento nacional, pues ni siquiera los menciona cuando reglamenta las regiones y provincias y las competencias de las entidades territoriales, como si los nuevos entes no existieran.

Por su parte el territorio *u'wa*, así como muchos otros de la Amazonía, se ve amenazado por las compañías petroleras. Hace dos años que la Empresa Colombiana de Petróleos (ECOPETROL) firmó un contrato con la multinacional Occidental Petroleum Corporation en el que se denominó el bloque Samoré, cuya cuarta parte pertenece a los *u'wa*. Este pueblo indígena ya viene sufriendo, desde los años 60, la pérdida de su territorio por la política de colonización estatal y por la construcción de un oleoducto. En este momento los *u'wa* tienen título de propiedad sobre tres resguardos en el área del bloque Samoré, pero existen varias comunidades *u'wa* dentro de la misma área que no tienen legalizada su situación.

Los *u'wa* han venido manifestando su oposición a la exploración petrolera en su territorio pues ya conocen la experiencia desastrosa de los pueblos indígenas del vecino departamento de Arauca.

Pese a la oposición indígena y al evidente efecto devastador que producirá la sola exploración petrolera en la integridad económica, social y cultural de este pueblo, el Ministerio del Medio Ambiente le concedió la Licencia Ambiental al proyecto, en completo desconocimiento del artículo 330 de la Constitución que prohíbe la explotación de recursos naturales en territorios indígenas cuando hacerlo causa la desintegración de las comunidades. Por otra parte el Convenio 169 (Ley 21 de 1991) exige buscar el consentimiento de la comunidad sobre las medidas que las afecten mediante una consulta apropiada. Los *u'wa*, por medio de la Defensoría del Pueblo, colocaron una acción de tutela para evitar el cumplimiento de la licencia y al mismo tiempo demandaron ante el Consejo de Estado, la nulidad de la Licencia Ambiental.

En Colombia, aunque no lo dicen los contratos, las licencias de exploración y explotación petrolera han comprendido el derecho a las multinacionales para disponer del destino de las tierras indígenas. Así fue en el Magdalena Medio y en el Opón-Carare, donde los habitantes nativos fueron totalmente exterminados en la primera mitad de este siglo. En la Serranía del Perijá los *motilón-bari* tuvieron que ponerse en pie de guerra frente a las petroleras. En Arauca, los *guahibos* han sido arrinconados en resguardos minúsculos y degradados a la condición de mendigos en la capital petrolera. En el Putumayo, las petroleras abrieron hace 15 años los caminos en el territorio de los *kofán* y en estos pocos años ellos han perdido el 80% de sus tierras. Hoy el gobierno colombiano ha entregado el destino de los *u'wa* en el contrato con la Occidental.

GUYANA

El «descongelamiento» de las concesiones madereras: inminencia de nuevos permisos madereros mientras que la minería se desplaza hacia el sur

Existen síntomas preocupantes de que el congelamiento del otorgamiento de concesiones madereras a compañías extranjeras en Guyana, está por ser quebrantado. Bajo la presión de los inversores extranjeros, el Gobierno de Guyana podría estar a punto de ofrecer nuevos permisos a compañías extranjeras a pesar de las promesas hechas a las agencias de ayuda en 1994, de que no se otorgaría ninguna concesión maderera hasta que la moribunda Comisión Forestal sea revivida y controle nuevamente la explotación maderera «existente».

De acuerdo al periódico nacional «Stabroek News», el 12 de marzo de 1996, el Asesor Presidencial para la Ciencia, Tecnología y Medio Ambiente, Navin Chandarpal, ha entrado en negociaciones con la compañía malaya, Solid Timbers Sendirian Berhad, para el otorgamiento de un permiso maderero de 500.000 hás. en el área de los ríos Alto Corentyne/New River, en el extremo sur del país. Esto significa cerca de la mitad de las más de 1 millón de hectáreas que la compañía había solicitado inicialmente más al sur, en el área del New River Triangle - un territorio en disputa con Surinam. Ambas áreas se encuentran fuera de la jurisdicción de la Comisión Forestal y muy al sur de la red carretera existente en el país. De acuerdo al informe del periódico, el Gobierno aprobaría primero una legislación para expandir el área de los Bosques Estatales y luego ofrecería a la compañía un arriendo exploratorio del área, bajo el cual se realizaría un inventario forestal y se desarrollaría un plan de desarrollo forestal y de inversión. El mismo informe alega también que otros dos grupos inversores del sureste asiático, Alex Ling Lee Soon y Vincent Tan's Berjaya Sdn. Bhd. solicitan aún más áreas en el sur.

Según su acuerdo con las agencias de ayuda, el gobierno de Guyana ha acordado que -para garantizar un manejo forestal sano e ingresos rentables al Ministro de Hacienda- no se otorgaría ningún permiso maderero por un mínimo de tres años, a partir de mayo de 1995 o hasta que la Comisión Forestal fuera capaz de reglamentar la industria. Mientras tanto, con el apoyo técnico y financiero del Departamento Británico de Desarrollo Internacional, la Comisión Forestal está tratando de aumentar el número de

personal, capacitarlo y revisar las reglamentaciones forestales y las «royalties» con el objetivo inicial de establecer un control sobre las casi 9 millones de hectáreas de bosques que ya están otorgados en concesión, y al mismo tiempo convertir a la industria en una fuente rentable de ingreso nacional.

Los funcionarios forestales de Guyana reconocen que pasarán años antes de lograrlo, y que mientras tanto, los concesionarios están sujetos a una supervisión mínima. Este es el tipo de situación que conviene a las compañías madereras. La poca supervisión, los impuestos bajos y la mano de obra barata atraen a los inversores al país. No hay duda de que actualmente los madereros obtienen su maderera extraordinariamente barata en Guyana. Un estudio realizado por el Banco Mundial, a fines de 1995, mostró que las «royalties», impuestos y derechos forestales pagados por los madereros en Guyana son de los más bajos de los trópicos, siendo menos de una décima parte de los pagados en la mayoría de los países africanos y asiáticos. Además, desde 1988, el importe de los derechos ha disminuido en términos reales. Las tasas de «royalties» están en un 30% de su valor previo, mientras que los impuestos aduaneros y sobre la propiedad han caído en más del 90% en la década pasada. Además de todo ésto, el informe establece que las compañías extranjeras gozan de «generosas exenciones impositivas y otras condiciones que incentivan la competencia desleal (para los productores locales)». Como resultado, Guyana está liquidando su patrimonio forestal a cambio de un limitado beneficio nacional. El informe advierte:

Este tipo de «explotación forestal conlleva un modelo de desarrollo explosivo y aniquilador, que puede ser altamente distorsionante para los niveles de empleo, el equilibrio comercial y otros factores de estabilidad macro-económica»

Para evadir su compromiso con las agencias de ayuda de no otorgar nuevos permisos madereros, el Gobierno parece haber inventado la ficción legal de los «arriendos exploratorios» - una categoría de permisos que no existe en el derecho de Guyana. De esta manera, el Gobierno espera mantener el interés de los inversores extranjeros para luego otorgarles permisos apenas esté en condiciones de hacerlo.

En Georgetown, algunos funcionarios de agencias de ayuda han sabido de estas negociaciones durante algún tiempo y están también preocupados por los rumores de que la compañía maderera

canadiense, «Buchanan Forest Products», está solicitando acceso a una concesión de 400.000 hectáreas en el río Mazaruni Medio. Esta área no explotada fue recientemente renunciada por «Mazaruni Forest Industries Ltd.» (un consorcio formado por miembros del «Prime Group» de Singapur) a cambio de que el «Prime Group» se hiciera cargo de «Demerara Timbers Ltd.», en apuros financieros, la cual explota una concesión de 500.000 hectáreas en el Essequibo Medio. Las propuestas operaciones de Buchanan en el Mazarini Medio lo pondrían en conflicto con una serie de aldeas de indígenas *akawaio*, quienes han habitado el área durante siglos. Se dice que el Gobierno, bajo la presión de Buchanan, que goza del apoyo de la embajada canadiense en Georgetown, está considerando otorgar a la misma un «permiso exploratorio» de tres años.

Buchanan no goza de una buena reputación en su provincia natal de Ontario, Canadá. Un informe de 1992 del Sindicato de Trabajadores del Papel de Canadá hace notar que Buchanan:

se ha convertido en una compañía plena de contradicciones. Por un lado, tiene una larga historia de hacer todo lo posible para evitar la legislación forestal, ambiental y laboral. Por otro lado, como ha crecido, el grupo Buchanan es más proclive a seguir la corriente general.

El informe detalla cómo Buchanan ha luchado, exitosamente, para reducir los costos laborales y ha explotado los bosques en forma excesiva para optimar las ganancias, guardando poca consideración al daño ocasionado a las existencias madereras residuales y poca preocupación por el desperdicio de madera. De acuerdo con el informe, Buchanan ha utilizado también tácticas de mano dura - amenazas de clausura de aserraderos- para presionar a los políticos a otorgarle el acceso a los bosques. El informe destaca cómo la compañía goza de laxos controles gubernamentales, cosechando los beneficios financieros al mismo tiempo que deja que los costos sociales y ambientales sean cargados a otros.

El informe alega que la compañía fue capaz de evitar ser enjuiciada por violación de las reglamentaciones de manejo forestal y ambiental, debido a que dispone de estrechas conexiones con políticos de peso en el ministerio del medio ambiente. Rastreando la historia de la compañía, el informe anota cómo el «laissez-faire» y las conexiones políticas permitieron que Buchanan violara repetidamente, sin consecuencias, la Ley Maderera, especialmente durante la década de 1960, 70 y comienzos de los 80. Sin embargo, en

años recientes, debido al aumento del interés público por el medio ambiente, la supervisión se ha ajustado y el cumplimiento se ha promovido más cuidadosamente, obligando a Buchanan a obedecer.

A pesar del mejor cumplimiento de las prácticas de manejo forestal, Buchanan ha logrado mantener los costos bajos, fundamentalmente desafiando a los sindicatos y evitando cumplir con las obligaciones que tiene para con sus empleados. El informe destaca:

el historial de Buchanan en las relaciones laborales se ha deteriorado sostenidamente a partir de fines de la década de 1970 y durante la de 1980. Son notorios el desprecio a los acuerdos sindicales, la negativa a cumplir con los beneficios laborales obligatorios y el tratamiento a los trabajadores en los bosques por parte de Buchanan.

La minería se traslada al sur

Mientras tanto, la industria minera de Guyana se está trasladando al sur. La que abre el camino, otra vez, es la firma malaya, «Solid Timbers Sendirian Berhad», cuya subsidiaria local, completamente bajo su dominio, «Tanahmas Gold Mining Company» ha sido otorgada recientemente un arrendamiento minero de 7.000 hás. en Camp Jaguar, sobre el New River. La compañía ha solicitado también otras 14.000 hás. en un área adyacente.

La minería se está también intensificando en otras áreas indígenas. Los indígenas *caribes* del río Barama, informan sobre varias operaciones de explotación aurífera nuevas en sus tierras tradicionales, entre las cuales se incluyen las actividades de las compañías «Citadel Co.», «Sonic Soil» y «Roraima Mining Company».

Por más información tomar contacto con:

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SURINAM

Después de meses de deliberaciones, la comisión especial del Gobierno de Surinam que revisa las propuestas de contratos para otorgar varias concesiones madereras enormes a compañías ex-

tranjeras, ha presentado finalmente un contrato a la Asamblea Nacional para su aprobación.

El contrato, que supuestamente otorgaría a la compañía malaya Berjaya Sdn. Bhd. una concesión de un millón de hectáreas en la parte oriental de Surinam, enfrenta una decidida oposición por parte de los pueblos indígenas y maroon que habitan en el interior del país.

Los pueblos del interior no están satisfechos con el hecho de que el Gobierno continúa otorgando prioridad a las compañías extranjeras, mientras que se niega a cumplir las promesas hechas a ellos en 1992 de reconocer sus derechos a los territorios ancestrales.

El contrato fue aprobado por la Asamblea a mediados de enero, pero en vista a la oposición del interior, la Asamblea decidió no aceptarlo inmediatamente y solicitó dos semanas para consultar con los líderes de los pueblos que habitan en el área de la concesión. El 6 de febrero, la Asamblea pidió otra extensión del plazo, pues los líderes locales habían expresado su firme oposición al contrato. En estos momentos se desarrolla un acalorado debate en la capital, Paramaribo, sobre si la concesión deber ser otorgada. Las compañías madereras domésticas han también expresado su oposición al contrato, pues alegan que Berjaya se verá beneficiada con grandes ventajas fiscales con respecto a los aserraderos locales, convirtiéndolos por lo tanto en no-competitivos.

Berjaya alega que ya ha invertido 20 millones de dólares en Surinam y ha expresado una considerable impaciencia por las demoras. Sin embargo, en respuesta a las objeciones planteadas por los líderes indígenas y maroon, la compañía ha declarado también que no cortará árboles en aquellas áreas en las que las comunidades locales se opongan a su presencia. Un portavoz de Berjaya fue citado en la prensa, declarando que si las comunidades selváticas del este de Surinam se oponen a la explotación maderera, preferirían que se les otorgara una concesión más hacia el oeste, quizás en el área inicialmente destinada a la transnacional indonesia Suri-Atlantic, la cual parece haber retirado su oferta por las selvas al sur de Apura.

La compañía Berjaya se ha visto involucrada en una controversia de igual seriedad en las Islas Salomón. El año pasado, después de haber sido acusada de sobornar a funcionarios del gobierno y luego de quedar atrapada en una disputa de tierras con las comunidades indígenas, la compañía se retiró y embarcó toda su

maquinaria a Sudamérica. Es incierto si su planta será enviada a Surinam o a la vecina Guyana, donde Berjaya ya se ha asegurado el control de una concesión existente pero inexplorada, previamente otorgada a las compañías locales UNAMCO y Case Timbers.

Mientras tanto, la compañía maderera indonesia MUSA, que ha estado operando en Surinam durante varios años, se ha visto también involucrada en una disputa territorial con un propietario de una plantación local, al expandir sus operaciones mucho más allá de las pequeñas 50 hectáreas que había adquirido. Incluso después de que un juez concluyera que el 90% de las actividades de MUSA en el lugar se encontraban fuera de sus posesiones legales, MUSA se negó a pagar compensación, lo cual condujo a la justicia a confiscar su maquinaria, edificios, tierra y madera.

La controversia relativa a las madereras extranjeras ha cobrado importancia pues Surinam va a celebrar elecciones generales dentro de sólo cuatro meses. Los miembros parlamentarios de la oposición están impugnando las concesiones ya que presentaría a cualquier gobierno próximo un incómodo «fait accompli». Los esfuerzos para asegurar los votos de las comunidades del interior en las próximas elecciones han elevado la temperatura política.

A fines de enero, las organizaciones locales por los derechos humanos, indígenas y del medio ambiente, publicaron un anuncio a toda página en la prensa nacional, oponiéndose a la concesión por ser políticamente irresponsable, económicamente no rentable, ambientalmente ruinoso y una afrenta a los derechos de los pueblos indígenas del interior.

Han hecho un llamado al gobierno para que: posponga el otorgamiento de la concesión; legalice el otorgamiento de los derechos a la tierra; otorgue servicios educacionales, sanitarios y sociales al interior del país; permita la participación de las comunidades locales en los futuros procesos resolutivos; y fortalezca la capacidad del gobierno para regular a la industria maderera.

Las organizaciones indígenas y maroon exigen que sus derechos territoriales sean reconocidos plena y legalmente, y sean garantizados efectivamente antes de que se otorgue cualquier concesión en el interior. También exigen participar plenamente en las negociaciones con las compañías y que se les permita representarse a través de sus propias instituciones.

ECUADOR

Entre enero y febrero de 1995 el conflicto no declarado entre Ecuador y Perú afectó directamente a los pueblos indígenas hermanos *shuar* de Ecuador y *aguaruna* de Perú.

La preocupación de las organizaciones indígenas de ambos países, así como de la propia COICA, no podía ser mayor pues estos dos pueblos hermanos habían declarado su apoyo e incorporación a sus respectivos ejércitos nacionales. En realidad la defensa de la «soberanía nacional» en nada ha beneficiado a los pueblos indígenas sino que muy por el contrario ha agudizado la situación de pobreza y marginalidad.

Con el ánimo de iniciar un diálogo entre los indígenas enfrentados, la COICA organizó tres encuentros con representantes de la Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana (CONFENIAE) y la Federación Shuar por el Ecuador. Por Perú participó la Asociación Interétnica de Desarrollo de la Selva Peruana (AIDSEP). Las resoluciones más importantes de estos encuentros fueron: 1) El desacuerdo con las políticas militares de los Estados, la disposición de superar mentalidades nacionalistas y trabajar por la unidad y la consolidación organizativa de los pueblos indígenas. 2) El rechazo a las políticas gubernamentales respecto a las zonas de fronteras para pueblos indígenas, por cuanto los Estados amparados en la Ley de Seguridad Nacional, asumen el control de ellas poniendo en riesgo la posesión ancestral de los territorios indígenas. 3) Que ambos países trabajen por encontrar soluciones pacíficas al diferendo; legalizar los territorios indígenas en favor de éstos y que estos territorios sean compartidos por los propios pueblos indígenas como Zona de Unión y Amistad.

Meses más tarde el gobierno nacional aprobó la Ley de Desarrollo Agrario que atenta directamente contra la integridad de los pueblos indígenas. Inmediatamente la Confederación Nacional Indígena del Ecuador (CONAIE) se pronunció contra una ley de esta naturaleza ya que debía de haber sido el producto de la reflexión y discusión de todos los sectores sociales del país. Al no haber sido así y ante la negativa del Estado en revisarla, la CONAIE, en asamblea extraordinaria del 7 y 8 de junio, decidió iniciar acciones de lucha que paralizaron 12 de las 21 provincias del país durante diez días. Finalmente, en medio del estado de emergencia decretado por el

gobierno, el 23 de junio el Tribunal de Garantías Constitucionales declaró la inconstitucionalidad de la ley.

El movimiento indígena, liderado por la CONAIE inicia posteriormente un diálogo con el gobierno con el fin de reformular la ley. Luego de varias jornadas de movilizaciones y diálogo se aceptó una nueva versión de la ley, la cual entró en vigencia el 3 de agosto y cuyos aspectos principales son los siguientes:

- El reconocimiento para que los indígenas puedan mantener sus formas tradicionales de vida.
- Que la reforma agraria aplicada a mediados de 1964 debe continuar con cuatro causales de expropiación: existencia de trabajo precario; atentado contra los recursos naturales; tierras inexplo-
tadas por más de dos años y predios sujetos a gran presión demo-
gráfica.
- El agua seguirá siendo un bien nacional de uso público y no enajenable.
- Se otorgará capacitación técnica, asistencia de créditos e igualdad de oportunidades de comercialización para las organizaciones indí-
genas.

En vista de las desventajas en la toma de decisiones políticas dentro de los organismos del Estado, el movimiento indígena del Ecuador decidió organizarse para participar de las elecciones generales del 19 de mayo de 1996. En alianza con otros sectores populares se formó el Movimiento Plurinacional Pachakutik «Nuevo País» en la mayoría de los cargos electivos. Esta decisión ha implicado un enorme desafío pues por un lado, es hacer frente a sectores políticos y económicos muy poderosos y, por otro lado, legitimizar los derechos de los indígenas a ser electos como autoridades civiles y demostrar que son capaces de conducir los destinos de su propio pueblo.

PERÚ

En Perú, tras de la horrenda masacre de familias *asháninkas* en Tahuantinsuyo, Mazamari, la sociedad nacional se solidarizó con el sufrimiento de este pueblo, sometido durante diez años a una situación de extrema violencia. Nadie, en el gobierno, hizo un esfuerzo por encontrar las raíces del problema real de los pueblos amazónicos, empobrecidos y presionados por la invasión descon-

trolada de sus territorios, ni relacionó los hechos violentos de la Selva Central con las políticas colonizadoras concretadas en Proyectos Especiales de asentamiento rural masivo.

Las políticas liberales del actual gobierno se van concretando en una serie de medidas que posibilitan nuevos atropellos a los derechos colectivos de los pueblos indígenas y permiten vaticinar el repunte de la violencia en la Amazonía, poniendo en peligro el frágil proceso de pacificación que se inicia en esta convulsionada región.

La extrema pobreza de gran parte de los departamentos de la Sierra, afectados por las políticas de ajuste (desfinanciamiento, caída de los precios en chacra, competencia de alimentos importados), no aclara el panorama de la migración descontrolada hacia la selva y, después de calmarse la tempestad, se van perfilando nuevas olas migratorias, principalmente hacia las zonas más afectadas por la violencia.

Para hacer las cosas más difíciles, el gobierno, en la dirección propuesta en los compromisos señalados en la Carta de Intención ante el FMI, ha tomado medidas legales que comprometen seriamente el futuro de los pueblos indígenas amazónicos. La Ley No 26.505 da un giro transcendental en la política de tierras, optando por el gran inversor y desconociendo derechos adquiridos de la población autóctona.

La Ley, y las propuestas reglamentarias que van anunciando su aplicación, se define como desregulatoria y abre la posibilidad a los inversores, nacionales o extranjeros, de acceder a las tierras indígenas, principalmente a aquellas que no han sido todavía tituladas.

Junto al desconocimiento de la especial relación que une a los pueblos indígenas con sus territorios (ahora los territorios son un bien mercantil), se proponen una serie de medidas, varias de ellas anticonstitucionales, que ponen en peligro la seguridad y el futuro de estos pueblos.

La posibilidad de declarar en abandono, por incumplimiento del contrato, las tierras forestales otorgadas en concesión de uso (gran parte de las tierras incluidas en los planos de demarcación), es un acto discriminatorio de consecuencias impredecibles. El abandono, en su concepción original, se ha eliminado expresamente de la nueva legislación. Pero mientras que la Ley asegura al inversor la total libertad para usar la propiedad predial a su entero acomodo, a los pueblos indígenas, en una medida que sólo a ellos afecta, se les

obliga a usar sus territorios ancestrales conforme a determinadas reglas, bajo amenaza de desposesión.

Esta disposición resulta tanto más contradictoria por cuanto se aplica una institución, basada en la obligación de realizar labores culturales agrícolas, a un contrato que prohíbe explícitamente realizarlas. Es, por otro lado, evidente su carácter anticonstitucional, a la luz del Art. 62 de la Carta Magna.

Pero si se considera que la aplicación resulta de una simple inspección ocular, con procedimientos sumarios y sin posibilidades reales de oposición, la injusticia se hace manifiesta. Se trata de un velado acto de expropiación que puede poner en grave riesgo la subsistencia de la población indígena.

Muchas otras propuestas legales atentan contra las comunidades indígenas que, en un alarde de cinismo, se someten a la legislación y a los procedimientos comunes bajo el supuesto de la igualdad entre las partes.

Pero si las garantías territoriales se han visto reducidas al mínimo, las posibilidades de recomposición de los territorios aún no titulados son prácticamente inexistentes. El Gobierno propone elaborar un mapa de tierras eriazas que, si no tiene oposición, serán registradas a su nombre y rematadas en pública subasta. Una vez más los procedimientos son un insulto a la justicia para los pueblos indígenas. El hecho de anunciar, en plazos perentorios, el mencionado mapa a través de «los diarios» supone un total desprecio por los derechos indígenas que pueden verse sorprendidos en cualquier momento por un desconocido, dueño de sus tierras ancestrales.

Este comportamiento colonial con los pueblos indígenas peruanos resalta con la ratificación por el Perú del Convenio 169 (Resolución Legislativa No 26253). Todos los derechos económicos, sociales y culturales de estos Pueblos quedan amenazados al generarse inseguridad en un punto tan axial como son sus territorios, botica, fábrica, escuela, banco de materiales y mercado de los indígenas.

Adicionalmente, la Amazonía, se encuentra en la actualidad frente a una nueva amenaza que pone en grave riesgo el territorio y el futuro de la vida cultural de muchos pueblos indígenas y otros pobladores locales. El gobierno peruano ha emprendido una agresiva promoción de la industria de los hidrocarburos, otorgando las más amplias facilidades para el desarrollo de las actividades petroleras, incluyendo las operaciones de exploración y explotación sobre territorios donde viven los pueblos indígenas, sin adoptar un acercamiento cultural y ambientalmente sensible y sin el respeto a

los derechos que asisten a los pueblos indígenas, en conformidad con el Convenio 169, a ser consultados antes de que estas licencias sean otorgadas.

En los últimos años, por recomendación de las agencias multilaterales como el Fondo Monetario Internacional y el Banco Mundial, se está iniciando el proceso de privatización de Petroperú y la implementación del modelo de mercado de libre competencia, con promoción a la inversión privada extranjera en las actividades de exploración, explotación, transporte, refinamiento y comercialización de hidrocarburos. Para ello, se han implementado en el sector medidas de estabilidad jurídica, exoneraciones tributarias a la importación de bienes e insumos, a la repatriación de utilidades, a la renta, desregulación del mercado de consumo, derogación de normativas de protección laboral, aumento de la superficie de concesiones, facilitación de la infraestructura de transporte y distribución, etc.

Hasta la fecha, por exigencia de las organizaciones indígenas, lo único que reciben de parte del Ministerio de Energía y Minas, en algunos casos, es la invitación a escuchar la presentación del Estudio de Impacto Ambiental que ofrecen las empresas. Pero esta invitación sólo tiene el propósito de cumplir con la simple formalidad, pues no se entrega el documento con la anticipación debida para permitir a los técnicos y dirigentes indígenas informarse adecuadamente y opinar, con fundamento, sobre el mismo.

Actualmente, prácticamente toda la selva empezó a ser lotizada con fines de exploración y explotación de hidrocarburos. Y, en la confianza de la capacidad del Estado de proteger las inversiones extranjeras, las compañías están rivalizando ansiosamente por obtener las licencias de operación.

Los lotes que ya se encuentran en explotación están causando graves deterioros sociales y ecológicos en la Amazonía. Por ejemplo la «Oficina Nacional de Evaluación de Recursos Naturales», ONERN, determinó que la zona de los ríos Pastaza, Tigre, Corrientes y Marañón, de aproximadamente cuatro millones de hectáreas, en la Selva Norte del país, es una de las «zonas ambientales críticas» más dañadas del país.

Para los pueblos indígenas y otras poblaciones locales estas actividades han traído consecuencias graves.

En los ríos de la selva, el nivel de sal es elevado por los vertidos a las quebradas y ríos donde toman contacto con el medio ambiente, destruyendo la flora y la fauna y contaminando los ríos de

las comunidades que proveen el agua para el consumo doméstico.

Los metales pesados y otros compuestos orgánicos que también fluyen, se acumulan en la cadena alimenticia de los peces, provocando con el tiempo enfermedades en la población adulta y la muerte, principalmente de los niños, por causa de enfermedades gastrointestinales, como sigue sucediendo entre las comunidades *quichuas* que viven a las riberas del río Tigre, donde la empresa Occidental Petroleum Co. hace más de veinte años bombea sus desechos líquidos desde los pozos de explotación que operan en esta zona.

También se reportan nuevas enfermedades desconocidas para la medicina tradicional de los indígenas, tal es el caso de los pueblos indígenas no contactados *kugapakori nahua* del valle del Urubamba. En abril de 1984, durante el proceso exploratorio cerca del río Camisea, las empresas subsidiarias de la Shell ocasionaron casi su exterminio, a causa de una epidemia de gripe.

Existen evidencias científicas de que la contaminación en los ríos Corrientes, Samiria, Cocha Pasto, Capahuari, Trompetillo, Tigre, Amazonas, Cocha Monatana, Pastaza Marañón, afecta directamente a las comunidades indígenas de la zona: *urarinas, muratos, cocamillas* y *quichuas*, que desde tiempos ancestrales han obtenido la mayoría de sus proteínas de la pesca.

En los ríos Pastaza, Corrientes y Tigre hay días en que la población tiene que dejar sedimentar el agua en sus recipientes, para que suba la capa verde aceitosa que tienen que desechar, para poder usar luego el agua que queda.

Se construyen carreteras, aeropuertos y campamentos como islas de comodidad y lujo en la selva, para lo cual, las empresas petroleras invaden y trasladan comunidades, sin respetar la propiedad de los territorios indígenas. Además, estas carreteras promueven la colonización espontánea, con los efectos conocidos.

Durante los dos últimos años se ha concedido a las empresas petroleras más de trece millones de hectáreas (130 mil kilómetros cuadrados) para realizar prospección y explotación de hidrocarburos. A la fecha, hay 29 lotes bajo contrato, los cuales comprenden una extensión total de 13 millones de hás. Algunos lotes siguen en tratativas de negociación y otros ya están definidos como zonas de estudio.

El problema viene con fuerza - diecinueve organizaciones indígenas están en alerta por esta razón - y es de carácter global, por lo que creemos que caracterizará el nuevo escenario de la Amazonía peruana en los próximos años.

La liberación de los controles, como puede verse, se traduce en un acoso de grandes proporciones a los derechos colectivos de los pueblos indígenas, cuyas regiones de asentamiento han sido catalogadas, en su inmensa mayoría, como de pobreza extrema y cuentan con los más bajos índices sociales.

El proceso de modernización choca también, en lo que se refiere a la población indígena, con el ejercicio de la propia ciudadanía. Muchos comuneros carecen de documentos civiles y no existen programas para superar esta desventaja, fuera de los que propician las propias organizaciones indígenas.

Por lo que respecta a la educación, y al margen de la marginación generalizada en toda la Amazonía, las poblaciones indígenas están viéndose presionadas a aceptar profesores procedentes de otras regiones, sin conocimiento del idioma o la cultura local y poco respetuosos de la idiosincrasia indígena. Desde esta perspectiva, la educación deja de ser un medio de desarrollo para convertirse en una ignominia y un acto de sometimiento cultural. Los resultados escolares son limitados, redundando en una percepción negativa de la capacidad de los alumnos indígenas.

Para terminar esta panorámica es preciso destacar el caso del pueblo asháninka, uno de los colectivos más golpeados por la violencia.

De acuerdo con la información de la Revista «Voz Indígena Asháninka», más de 3.800 personas han muerto o desaparecido. Cincuenta comunidades han sido devastadas y abandonadas. Quince mil (una tercera parte de este pueblo) ha sufrido desplazamiento de sus lugares de origen. Veinticinco mil han sido afectados, en diversos grados. En el autocenso, realizado en forma incompleta, se confirma que, en la actualidad siguen desplazadas 689 familias, un total de 2.884 personas, y, al menos, 374 niños son huérfanos de ambos padres.

La situación de los «recuperados» (que estaban retenidos por Sendero Luminoso) es calamitosa. Traumas psicológicos, tuberculosis, desnutrición aguda, deshidratación, anemia y otras enfermedades son frecuentes entre la población.

En muchos aspectos, la vida de los comuneros asháninkas ha sufrido fuertes convulsiones y la recuperación de las condiciones mínimas de subsistencia está todavía muy lejana.

El gobierno viene prestando ayuda asistencial y donaciones de supervivencia, pero la gravedad de la situación supera ampliamente estos paliativos. De momento, las organizaciones asháninkas

vienen concentrando su interés en el retorno de los desplazados y la recuperación de la producción de autosostenimiento.

Para ello la principal exigencia es la seguridad territorial que se ve amenazada por los nuevos procesos de invasión que se vienen generando. Muchas de las comunidades abandonadas han sido ocupadas por cocaleros y otros colonos migrantes, con conocimiento (y a veces, con el consentimiento e incluso la promoción) de parte de funcionarios locales. Los métodos expeditivos con los que se anuncia titular a los poseionarios colonos han estimulado aún más el proceso de ocupación precipitada de las tierras indígenas. Pedidos de reservaciones, como la del tradicional territorio del Sira, están sin resolver, lo que propicia su paulatina ocupación.

Actualmente, la contratación del lote 66 en beneficio de la empresa francesa ELF y asociados, en un millón de hectáreas de los espacios territoriales asháninkas de mayor fragilidad (Ene, Perené, Pangoa, Pichis), abre un nuevo capítulo de dificultades a este pueblo que no ha dejado de ser agredido durante los últimos años.

Para ser el Decenio Internacional de las Poblaciones Indígenas del Mundo, con el que el gobierno peruano se ha aunado, no parece un panorama muy alentador.

BOLIVIA

En Bolivia continúa la lucha por la tierra y el territorio aunque este año no ofreció cambios significativos ya que los territorios ofrecidos por el anterior gobierno hasta la fecha no han sido demarcados físicamente.

La Ley de Participación Popular aprobada por el Gobierno Nacional en 1994, si bien ha sido motivo de polémica entre las organizaciones populares, abrió mejores posibilidades de participación de los pueblos indígenas en el contexto social y político del país. En este sentido todas las organizaciones afiliadas a la Confederación Indígena de Bolivia (CIDOB), decidieron participar directamente en las elecciones municipales de diciembre de 1995. Pero una de las grandes limitaciones para la participación electoral de las organizaciones populares, especialmente las indígenas y campesinas ha sido el no poder participar como organizaciones independientes. Esto ha significado una de las principales trabas en todo el proceso electoral ya que los partidos políticos persisten en sus formas tradicionales de hacer política: el autoritarismo, el paterna-

lismo y la corrupción. Otro serio problema fue el hecho de que no todos los indígenas puedan votar porque la mayoría no poseen documentos de identidad. El proceso para obtener documentación ha sido lento y hasta la fecha no ha cumplido con sus objetivos. Según datos de la dirigencia indígena, de los 200.000 indígenas que viven en el Departamento de Santa Cruz, sólo la mitad de los que están en edad de votar, cuentan con su carnet de identidad. Sin embargo y pese a estas dificultades, la participación indígena en las elecciones ha sido positiva ya que en Santa Cruz han sido elegidos dos alcaldes indígenas y una veintena de concejales municipales.

Estos nuevos cargos municipales implican un gran reto para la dirigencia indígena, considerando que no tienen experiencia en el manejo de las cosas públicas.

Mientras tanto, las demandas territoriales siguen siendo el eje reivindicativo principal indígena. La CIDOB ha solicitado la entrega de títulos de propiedad a 64 comunidades indígenas de Santa Cruz y el Beni pero hasta la fecha no se tiene resultados de esta petición.

Prácticamente todos los pueblos indígenas en Bolivia tienen problemas constantes con empresarios ganaderos o madereros. Hasta en los territorios reconocidos estos empresarios invaden y ocupan las tierras indígenas.

Por su parte la Asamblea del Pueblo Guaraní firmó con el gobierno, el acuerdo denominado «Plan de Acción» con el objetivo de solucionar principalmente sus problemas territoriales.

BRASIL

El Decreto 1.775/96

No obstante el hecho que recién se haya concretado a inicios de 1996, los pueblos indígenas del Brasil vivieron el año 1995 bajo la expectativa del anunciado cambio del Decreto 22/91, que reglamentaba el procedimiento administrativo de demarcación de tierras indígenas. El Ministro de Justicia, Nelson Jobim, hizo repetidas declaraciones públicas en diversas reuniones con entidades indígenas e indigenistas, en las cuales defendió la urgente necesidad de cambiar el referido decreto en función de su inconstitucionalidad.

El ministro se basaba en una acción directa de inconstitucionalidad (ADIN) presentada por la empresa Sattin Agropecuaria e Imoveis S. A. contra el área indígena de Sete Cerros, de los indígenas *guaraní-kaoiwá*, en el Estado de Mato Grosso do Sul. Presenta-

da ante el Supremo Tribunal Federal, la acción pedía la inconstitucionalidad del Decreto 22/91 alegando un cercenamiento de la defensa por la inexistencia de la institución jurídica de la contradicción. Usando su autoridad, el ministro Jobim se puso a debatir y escribió artículos en la prensa, asegurando que el Decreto 22/91, tal como estaba, no garantizaba la legitimidad de la demarcación de las tierras porque no escuchaba a los presuntos propietarios de las tierras declaradas indígenas.

La argumentación del ministro fue rebatida por juristas altamente conceptuados del país, por ejemplo, el profesor Dalmo de Abreu Dallari, quien junto con el Ministerio Público, se esforzó en el sentido de mostrar la inadecuación de la medida a ser tomada por el poder ejecutivo brasileño. En una tesis defendida por el CIMI (Consejo Indigenista Misionero) y otras entidades indigenistas, el jurista sostiene que la contradicción es concebida apenas como un proceso administrativo y no es un procedimiento de demarcación que por sí solo confiera derechos a los indígenas a sus tierras, derecho asegurado por la Constitución brasileña. El procedimiento administrativo de la Unión, asegura el profesor con el acuerdo del CIMI, apenas constata el hecho de la ocupación tradicional. Tanto el jurista como los procuradores de la República y los abogados de renombre del país, alegan ahora que el nuevo decreto, publicado en enero con el número 1.775/96, es inconstitucional por haber validado títulos de dominio que la Constitución brasileña considera nulos, tratándose de tierras indígenas.

No es la primera vez que el gobierno brasileño usa artificios para insertar la contradicción o amenazas similares. En 1990 y 1991 el presidente Fernando Collor de Mello intentó esa medida en ocasión de la discusión y elaboración del decreto N° 22. La inserción de la contradicción, por lo tanto, no pasa de ser una faceta neoliberal de política indigenista que tiene como objetivo la satisfacción de intereses privados. «Es un regalo a los invasores ilegales, las empresas madereras y mineras clandestinas», denunció Dallari.

Diversas entidades nacionales e internacionales solidarias con los pueblos indígenas, organizaciones indigenistas y todas las organizaciones indígenas del país, se manifestaron en contra del cambio del Decreto 22/91, pero todas las protestas fueron ignoradas. En este período se destacó en el país una rearticulación del Foro de Defensa de los Derechos Indígenas, congregando a entidades solidarias con los pueblos indígenas, diputados federales y reivindicando el mismo tratamiento para las demás reservas.

Las luchas de los pueblos indígenas

Mientras que el Congreso Nacional y el gobierno brasileño discutían cómo intervenir en las áreas indígenas, los pueblos indígenas realizaban autodemarcaciones y rechazaban las invasiones de sus tierras. Desde el inicio del año hubo conflictos en diversas áreas.

Uno de los más graves sucedió en la *maloca* de Caraparu, con la acción de la policía militar contra los indígenas *macuxi* (Roraima), que fueron expulsados y sus casas fueron destruidas. En diciembre volvieron a suceder nuevas agresiones contra este mismo pueblo, culminando uno de los años más violentos para el mismo. Según informes del Concejo Indígena de Roraima (CIR), el estado de Roraima es el campeón nacional de la violencia institucionalizada. En los últimos 8 años, 12 indígenas del área indígena Raposa/Serra do Sol, fueron asesinados y nadie fue castigado.

Se puede anotar una victoria. En mayo, después de diversas denuncias del CIR, el Juez Renato Prates revocó la autorización concedida al ejército brasileño para la ocupación del área indígena Raposa/Serra do Sol. Los militares fueron acusados de abuso de autoridad por los indígenas. Hacía tres meses que patrullaban el área con el argumento de reducir los conflictos en la región.

La tensión fue permanente también contra los *yanomami*, *macuxi* (Roraima), *guajajara*, *krikati*, *guajá* (Marañón), *kaiapó* (Pará), *xucuru* de Ororubá (Pernambuco) y otros. Los *aikewar* (Pará) vieron quemar casi el 80% de sus bosques por un incendio. En agosto, los *avá-guaraní* de Paraná y después en noviembre los *guaraní* de Río Grande do Sul, realizaron por cuenta propia la demarcación de sus tierras. El caso está en la justicia. En septiembre, la Funai localizó un grupo de indígenas aislados, de cerca de seis personas, en la región de Corumbiara, en el estado de Rondonia, en el mismo lugar donde en agosto ocurrió la más violenta masacre de trabajadores rurales del país.

La falta de asistencia

La ausencia de una política indigenista y el sometimiento de la Funai, son características claras de la negligencia con que el gobierno de Fernando Henrique Cardoso trata a los pueblos indígenas. Esto se refleja en el abandono de las comunidades, en la ausencia de demarcaciones, en la falta de recursos para la salud y la educación.

Como consecuencia de esta planeada falta de asistencia sanitaria, el índice de muertes en las comunidades indígenas creció en

1995, llegando a totalizar 250 casos. De estos, 102 fueron provocados por la malaria. En el mismo período se registraron 14 asesinatos.

La salud fue el principal motivo de preocupación para los indígenas *yanomami* en el año 1995. Según el CIR, los datos del Distrito Sanitario Yanomami de la Fundación Nacional de la Salud comprobaron que en los dos últimos años ocurrió un crecimiento del coeficiente de mortalidad en la población indígena *yanomami*. En los primeros tres meses de 1995 hubieron 39 muertes y en los últimos siete años fueron 2.220 las muertes. Los casos de oncocercosis también asustan. Entre los meses de octubre y diciembre del año pasado, la Comisión Pro-Yanomami (CCPY) y la Fundación Nacional de la Salud (FNS) realizaron un proyecto piloto para el Control de la Oncocercosis en 14 comunidades *yanomami* de la región de Toototobi y Balawau, donde la dolencia es hiperendémica. Según la Comisión Pro-Yanomami, entre la población de 539 personas, fueron tratadas 432 (excluyendo a mujeres embarazadas y niños). De estas, el 66,2% de los indígenas examinados eran portadores de la «ceguera del río». Los médicos que formaban parte del proyecto concluyeron que el control de la oncocercosis de la región depende de un programa global de asistencia permanente de la salud para el área.

Los *yanomami* sufrieron también la amenaza de que su territorio fuera invalidado por una iniciativa de parlamentarios federales, que felizmente no prosperó. En otra embestida contra los derechos indígenas, los mismos parlamentarios aprovecharon la reforma constitucional en curso, para presentar sus cambios al capítulo relativo a los indígenas de la Constitución. Una de esas tentativas fue la enmienda que intentó prohibir la demarcación de las tierras indígenas en la faja fronteriza, que pide la transferencia de la decisión de demarcación del Ejecutivo al Legislativo, donde los intereses anti-indigenistas son mayores. La marcha de la protesta está paralizada.

Conclusión

En setiembre, el Senado brasileño aprobó los actos bilaterales entre Brasil y Alemania para la aplicación de recursos en proyectos ambientales. En el proyecto, alrededor de 30 millones de marcos son previstos para la demarcación de áreas indígenas en la Amazonía brasileña en el Programa Piloto para la Demarcación de

Tierras Indígenas. Desde la publicación del Decreto 1.775/96, todas las demarcaciones fueron paralizadas y 12 áreas indígenas que forman parte del Programa Piloto vieron sus límites contestados.

PARAGUAY

El año estuvo marcado por penurias para los pueblos indígenas del Paraguay. No sólo por la precariedad en la que viven, a causa de la destrucción de su habitat y el acoso de parte de los «propietarios» de las tierras en las que viven -a las que se suman las invasiones de campesinos sin tierra- sino también por problemas de desnutrición, tuberculosis y parasitosis crónica; la deficiente y casi ausente atención médica y odontológica en las comunidades, las inundaciones de ríos, falta de agua potable en otras, la deforestación y otras inclemencias naturales.

En lo que hace a los indígenas del Chaco, al menos resultó esperanzador que la Gobernación de Boquerón haya anunciado, a principios de año, la creación de una secretaría para asuntos indígenas y medio ambiente. La dependencia se ocuparía de buscar el bienestar de las comunidades indígenas de la zona con el suministro de agua potable, distribución de semillas y de víveres entre otras acciones. Es importante señalar que el 55% de los 29.000 pobladores del departamento Boquerón son indígenas de diferentes etnias.

A lo largo del primer semestre del año, las inundaciones del Río Paraguay pusieron en difícil situación a poblaciones de la ribera. Los periódicos calificaban de dramática la situación de 14 comunidades del Alto Paraguay y 9 del Dpto. de Concepción. Unos 3.000 indígenas se hallaban gravemente afectados y solamente una de las comunidades recibía ayuda del Comité de Emergencia Nacional. La inundación creó graves problemas y que las aguas acabaron con los cultivos, arruinaron las chozas y dejaron a los indígenas sin las posibilidades de caza.

Durante estos meses se sucedieron también hechos más o menos graves que empeoraron la situación de varias comunidades indígenas. Estos hechos son los constantes atropellos, invasiones, asesinatos y robos que realizan funcionarios policiales, estancieros, campesinos y/o personas extrañas en territorios indígenas. Algunos de los casos más significativos fueron:

- Las tierras de los *mbya guaraní* de Ypau, fueron invadidas sin que se tome medida a nivel gubernamental. El problema llegó a afectar a miembros del Instituto Nacional del Indígena (INDI) en cuanto a que -según denuncias de madereros de la zona- los depredadores tendrían permiso de esa entidad para extraer madera. En varias oportunidades anteriores el territorio había sido invadido por campesinos que contaban con el apoyo de políticos oficialistas y de altos funcionarios gubernamentales. Ante esta situación irregular, las autoridades pertinentes no han hecho absolutamente nada.

- La comunidad *mbya* de Amambay-Culatrillo (Departamento Caaguazú) fue varias veces invadida por campesinos que decían tener autorización del Instituto de Bienestar Rural (IBR) para asentarse allí y proceder al desmonte. Las denuncias señalaban asimismo que los campesinos dispararon armas contra sus casas para atemorizarlos y obligarlos a abandonar las tierras. A pesar de que hubo hasta intervención de la Policía Nacional para desalojar a los campesinos, los mismos continuaron el acoso y la depredación del hábitat ante la mirada indiferente de las autoridades competentes.

- Indígenas *avá guaraní* de la jurisdicción Corpus Christi (Departamento de Canindeyú) denunciaron que funcionarios policiales derribaron y quemaron 15 viviendas, como parte de una campaña de amedrentamiento para que desalojen la tierra que ocupan. Este nuevo atropello a los indígenas *avá guaraní* es sólo uno más de los tantos que sufrieron a lo largo de 1994, sin que se haya tomado medidas adecuadas para proteger a los nativos del abuso de la autoridad policial ni de la persecución de los brasileños, supuestos dueños de las tierras reclamadas.

- Líderes de la etnia *pai tavyterá* de la localidad de Mbaracay, distrito de Capitán Bado (Amambay) denunciaron ante el Congreso Nacional el asesinato de Victorino Barrios de 62 años, ocurrido el 21 de febrero de 1995. Según el relato de testigos, dos hombres a caballo dispararon al indígena y luego lo machetearon para posteriormente arrastrarlo al monte donde fue abandonado. Desde hace meses los indígenas de dicha comunidad están sufriendo una campaña de hostigamiento por parte de ciudadanos brasileños propietarios de las tierras con el fin de que los indígenas abandonen su hábitat tradicional. Según los líderes estos propietarios serían los autores morales de estos asesinatos. Luego de conocerse el hecho el INDI

decidió suspender las negociaciones con los propietarios y exigir la expropiación de 1.000 hectáreas a favor de la comunidad pai tavyterá, sin embargo es igualmente importante que las autoridades responsables investiguen y castiguen a los culpables del crimen.

– Parte de la comunidad Kayawe Atoq Kelasma del pueblo *enxet* estaba asentada en la estancia Quebracho. Esta estancia fue vendida, y el nuevo propietario, el Sr. Carlos Campo Riera, despidió a todos los empleados indígenas sin pagar indemnización y posteriormente los expulsó del lugar. Acto seguido, dispuso la quema de los ranchos indígenas ubicados en su estancia.

– Las comunidades *enxet* de Keylyephapopyet y Lamenxay del Chaco han denunciado la permanente violación de la medida de no innovar dictada sobre las tierras de los estancieros Jorge Raúl Abente y Pelayo Abente. Esta violación la realizan a través de la apertura de nuevos caminos, el levantamiento de nuevas alambradas, la construcción de corrales para ganado vacuno, la construcción de tajamares y otros. Los hechos fueron debidamente constatados hacia mediados del '95 por la propia Fiscalía General del Estado, sin que la misma hasta el momento haya hecho lo suficiente para detener la perpetración del delito de desacato que afecta seriamente a los intereses de las comunidades referidas. Asimismo la Fiscalía General del Estado verificó también la violación de la medida de no innovar en las tierras reivindicadas por la comunidad Maktlawaiya por parte del propietario de las mismas, el señor Eliodoro Cohene, quien ha realizado trabajo de desmonte en amplias áreas solicitadas por los indígenas; en este caso la Fiscalía hasta la fecha no se ha pronunciado.

Otros problemas señalan la casi impotente realidad que viven las comunidades *enxet* de Yake Axa, Yesamathala y Esmeralda, que reivindican 15.000, 3.739 y 4000 hectáreas respectivamente, que enfrentan una larga dilación en los procesos administrativos correspondientes. En este sentido la deliberada demora en la realización de las inspecciones oculares solicitadas, como paso necesario para la negociación de las tierras, demuestran una velada complicidad del Instituto de Bienestar Rural (IBR) con los estancieros, quienes son los únicos beneficiados con la paralización de las inspecciones solicitadas en algunos casos y llevan cerca de los tres años.

Igualmente el Parlamento, en octubre del '95 rechazó un pedido de expropiación prefiriendo proteger la cooperación paraguayo-japonesa antes que los derechos constitucionales de la comunidad

Potrero Guaraní poseedora de las tierras y tituladas hoy a nombre de la JICA.

En relación al ámbito educativo se han realizado distintas acciones impulsadas por los mismos indígenas con el fin de mejorar la educación dentro de las comunidades indígenas, especialmente la formación de los maestros nativos. Demandaron un presupuesto destinado a la reforma educativa indígena y la incorporación de un departamento de educación y un Consejo Educativo Indígena, con la participación de indígenas e indigenistas en instancias decisivas de la reforma educativa. La elaboración de programas propios para cada etnia, el respeto a la cultura de cada pueblo, una escolarización que tenga en cuenta el sistema educativo tradicional fueron también otros reclamos presentados por los maestros indígenas al Ministro de Educación.

Es importante señalar que el Director General de la UNESCO, Federico Mayor, se refirió en Copenhague a la situación indígena de Paraguay en los siguientes términos: «me preocupa la lentitud del Ministerio de Educación del Paraguay en poner en marcha la reforma educativa indígena. Da la impresión que en ciertas esferas oficiales todavía no se han asimilado los solemnes principios sobre los derechos de los pueblos indígenas promulgados en la Constitución Nacional paraguaya».

Hasta el momento el sistema educativo que rige la enseñanza indígena data del año 1957 siendo hoy totalmente obsoleto. Las experiencias en el Paraguay de una educación indígena que tenga en cuenta la educación tradicional, apoyada en textos bilingües de la cultura indígena sólo se ha dado en mínima escala y siempre gracias a la iniciativa privada, a veces fruto de esfuerzos de misioneros o indigenistas. El Estado no ha tomado ninguna iniciativa en este sentido.

Cabe destacar como importante el proceso vivido por algunos pueblos indígenas en relación a la conformación y consolidación de espacios organizativos más amplios intra e interétnicos. Han organizado por ejemplo, una serie de encuentros de líderes indígenas agrupados en diversas organizaciones y coordinaciones para analizar y discutir temas de interés común. Algunos de éstos han sido los proyectos de la Unión Europea, la electrificación del Chaco, la Hidrovía y la creación del Fondo de Desarrollo Indígena. Estos emprendimientos buscan ser implementados en una región donde la población mayoritaria es la indígena -y a excepción de los semi-

narios organizados por el Fondo Indígena-, los responsables nacionales e internacionales siguen marginando a los afectados directos no ofreciendo espacios de análisis y debate oficiales.

Asimismo han protagonizado acciones que han tenido gran repercusión en la prensa y opinión y opinión pública. En varias oportunidades líderes y representantes del pueblo *enxet, toba qom, nivacle* han realizado visitas, encuentros y movilizaciones ante el Congreso Nacional en reivindicación de sus derechos territoriales y para reclamar que los rubros solicitados por el INDI para la legalización de las tierras indígenas no sean recortados.

El apoyo brindado por las entidades indigenistas y ecologistas europeas al respeto y reivindicación de los derechos humanos de los pueblos indígenas del Paraguay tuvo gran destaque en la prensa nacional e internacional. Las mismas hicieron saber al gobierno paraguay su preocupación, específicamente en relación a las reivindicaciones de tierra del pueblo *enxet* y *ayoreo-totobiegosode*. Igualmente brindaron su apoyo y cooperación para que Marcelino López, representante del pueblo *enxet* pudiera participar en la sesión del Grupo de Trabajo sobre Poblaciones Indígenas de las Naciones Unidas en Ginebra. Su participación fue ampliamente publicada por los medios locales.

En relación a la realización del Proyecto de Desarrollo Sustentable del Chaco Paraguayo fue decisiva la publicación de una nota enviada por la Ministra británica Baronesa Chalker al diputado británico del Partido Conservador Jacques Arnold. Dicha misiva señala que varios estados miembros se opondrán a cualquier paso más allá de los estudios preparatorios a ser financiados en la fase inicial del proyecto, a menos que se cumplan con las precondiciones, es decir que el gobierno paraguay resuelva las reivindicaciones de tierra de los pueblos indígenas de la región antes del inicio de la segunda etapa operativa del proyecto. Sin embargo, a la fecha, las comunidades indígenas no han sido consultadas sobre el tema ni tampoco se conoce el texto del acuerdo firmado por el gobierno paraguay y la UE sobre el citado proyecto.

Luego de meses de espera, finalmente el Presidente Wasmosy firmó el decreto por el cual fueron incorporados al Consejo del Instituto Paraguayo del Indígena (INDI) un consejero titular y otro suplente, nominados al cargo por el Foro de Entidades Privadas Indigenistas (FEPI). El hecho fue sumamente significativo en relación a las perspectivas de renovación del ente rector de la política

oficial indigenista del Estado, acusado constantemente por la prensa local de ineficiente y corrupto.

La labor de las entidades privadas se encaminó más bien, entre otras tareas, a exigir al INDI que adecúe su actuar a los parámetros históricamente incumplidos de la legislación paraguaya que es bastante favorable a los pueblos indígenas.

Sin embargo la compleja realidad del ente y la situación global del país no son las más propicias al cambio. El INDI ha sido, y sigue siendo, una institución presa del clientelismo político del partido de gobierno que encuentra así ubicación laboral a muchos de sus operadores políticos que en nada se sienten comprometidos con los pueblos indígenas y son absolutamente ignorantes en el tema. A esto hay que sumar la partidización del Consejo Directivo; la negativa del sindicato de funcionarios a la implementación de una política de achicamiento del ANDI, así como la presencia de indígenas urbanos que perciben salarios por el solo hecho de ser indígenas, son condicionantes de un proceso en el que muy poco se pudo avanzar.

Sin embargo se debe rescatar como positivo que el presidente del ente ha buscado apoyo en las entidades técnicas, negociando como político el proceso de transición. Es así como se ha concebido un plan nacional para comunidades indígenas que establece las bases formales para la reestructuración de la institución. Igualmente en coordinación con las instituciones agrupadas en el FEPI y con el apoyo de la Fiscalía General del Estado y de las Iglesias cristianas del país, se ha presentado un presupuesto para que sean asignados en la Ley de Gastos del Estado, los fondos para dar respuesta a expedientes reivindicatorios de tierras que aguardan solución, algunos desde 1981, año de la creación del INDI.

El pedido de casi 50.000.000 U\$ para el pago de las indemnizaciones provenientes de la titulación de las tierras indígenas que hizo el INDI al Parlamento, contradijo la solicitud del gobierno central de apenas 7.500.000 U\$ para el mismo rubro. El Parlamento finalmente asignó un presupuesto de 15.000.000 U\$ aproximadamente, comprometiéndose verbalmente a aumentar el monto en forma gradual hasta el 98.

Cabe destacar que este período representó un tiempo muy fructífero en reivindicaciones de tierra, y el INDI adquirió, en la zona chaqueña, 98.000 de las 600.000 hectáreas reclamadas por la comunidad ayoreo totobiegosode; 35.000 hectáreas de las 163.000

reclamadas por el pueblo enxet y tierras en favor del pueblo *toma-rajo*. En la región Oriental, 995 hectáreas para los pai tavyterá; en favor de la etnia ava guaraní unas 2.467 hectáreas y 192 hectáreas en favor del pueblo mbya, muchos de ellos tras largos años de lucha por legalizar ínfimas partes de sus territorios tradicionales.

En relación a las tierras compradas, existen ciertamente dudas sobre la conveniencia de algunas de las adquisiciones y de que en algunos casos el precio sobrepasaba las expectativas definidas como justas por el FEPI. Por esto es urgente que las entidades gubernamentales responsables de velar sobre la correcta ejecución del presupuesto de la Nación realicen un seguimiento y control que asegure un manejo nacional y transparente de los fondos.

ARGENTINA

En Argentina, el reconocimiento de los derechos indígenas en la nueva Constitución Nacional en el año 1994, garantizando, entre otros derechos, «el respeto a la identidad (de los pueblos indígenas) ... y la posesión y propiedad comunitarias de las tierras que tradicionalmente ocupan» (Art. 75, inc. 17), marcó el inicio de una nueva etapa en el arduo camino de los pueblos indígenas del país para hacerse reconocer y ser respetados. Ya resulta inconcebible negar, como se hacía hasta no hace mucho tiempo, la existencia de una importante población indígena en el país, la que probablemente asciende a medio millón de personas. Los medios de comunicación han tomado nota de esto. Tal es así, que las difíciles condiciones de vida y los diversos reclamos de las diferentes comunidades indígenas ya son noticia en los diarios, la radio y la televisión.

A pesar de este avance básico en la conciencia pública, la respuesta política a nivel de los reclamos puntuales muestra una incomprensión alarmante. Un ejemplo típico de esta incomprensión fue el programa de los llamados «Casos Blancos», desplegado en la zona de las comunidades *wichi* y *chorote* del Pilcomayo Salteño, a mediados del año pasado. Supuestamente fue una experiencia piloto del «plan de lucha para combatir el hambre y la pobreza», con la autoría del mismo Presidente Carlos Menem. Se pensaba usar a los indígenas para probar un modelo de asistencia para su exportación a otras partes del mundo donde la gente padece situaciones de emergencia socio-económica. En la práctica, no se hizo más que

distribuir unas ropas y alimentos ajenos, plantar unas huertas apuradas para lucir en el acto de clausura, presidida por los Presidentes de Argentina, Bolivia y Paraguay, y ofrecer durante unos pocos días atención médica. Como explicó un vocero de este plan, «se trata de combatir el hambre y la pobreza, pero a través del suministro de nuevas pautas culturales. Se considera que sólo con su asimilación será posible que las comunidades 'inoculadas' tengan posibilidades de mejorar su subsistencia». Evidentemente, este oficial desconocía que la Constitución Nacional garantiza el respeto a la identidad propia de los pueblos indígenas, mientras se hacía oídos sordos a la voz de los mismos indígenas, nucleados en la Asociación de Comunidades Aborígenes «Lhaka Honhat», que reclamaron, no esas medidas superficiales de asistencia momentánea, sino la entrega del título de sus tierras.

Los casi 6.000 indígenas de esa Asociación (mayoritariamente wichi), mantienen una larga lucha para lograr el reconocimiento de sus derechos propietarios sobre unas 400.000 has. de tierras fiscales (dentro de los Lotes Fiscales 55 y 14) en el extremo norte de la Provincia de Salta. Sucesivos gobiernos de la Provincia se han negado a dar los pasos necesarios para el reconocimiento efectivo de los derechos de las 33 comunidades, miembros de la Asociación, a la posesión de las tierras que tradicionalmente ocupan. La situación crítica de supervivencia de estas comunidades se debe a la ocupación de sus tierras, a partir de comienzos de este siglo, por ganaderos que dejan vagar sus animales a campo abierto, desencadenando así un proceso de devastación ambiental. De esta manera se ha liquidado una gran parte de los recursos naturales de los que los indígenas tradicionalmente dependen para su subsistencia. Últimamente aumentó la tensión entre las dos poblaciones, habiendo amenazas contra los indígenas, mientras los ganaderos proceden a alambrar tierras y negar a los indígenas el acceso a las mismas.

La situación de estas comunidades se ha vuelto aún más precaria por la construcción de un puente internacional sobre el río Pilcomayo, al lado de una de las comunidades más grandes de la zona, Nop'ok 'Wet, o La Paz en castellano. Los planes de urbanización para el pueblo fronterizo ignoran la preexistencia de los indígenas en el lugar y las rutas de acceso pasarían por el medio del territorio reclamado por Lhaka Honhat. Este proyecto tiene que ser visto en el marco de los grandes planes de integración regional,

especialmente de los países del Mercosur, y en este caso se propone unir no solamente el Noroeste Argentino con Paraguay, sino también Brasil con Chile. A pesar del apoyo de numerosas instituciones nacionales e internacionales al reclamo indígena por sus tierras, y la presentación de dos informes a la Comisión de Derechos Humanos de la ONU denunciando la crítica situación que los indígenas están enfrentando, todavía el Gobierno de Salta se muestra reacio a dar la respuesta que por ley le incumbe.

Las comunidades indígenas por toda la costa del río Pilcomayo, en las dos Provincias de Salta y Formosa, en este momento están enfrentando otra amenaza a su sobrevivencia. A lo largo de varios decenios de años, el río Pilcomayo ha venido perdiendo su cauce como consecuencia de las enormes cantidades de sedimento que cada año trae de la cordillera de los Andes y las deposita en los llanos del Chaco. Con la colmatación del cauce, el río ha ido retrocediendo varios kilómetros cada año, formando esteros con el agua que desborda. En un intento de parar este proceso, los dos gobiernos de Paraguay y Argentina concibieron un proyecto para derivar las aguas del río en dos canales, uno para cada lado, que en teoría tendrían también que llevar los sedimentos y depositarlos lejos del cauce del río. El año pasado casi toda el agua se fue por el lado paraguayo, dejando a las comunidades en Formosa sin agua y sin pescado. Ahora los dos Gobiernos, con el apoyo financiero de la Unión Europea y el Fondo Financiero de la Cuenca del Plata proponen construir un dique interceptor con una extensión de unos 25 kilómetros ubicado a unos 40 km. abajo de los actuales canales de derivación. Las consecuencias de estas obras para las comunidades indígenas asentadas sobre las costas del río, no solamente en Formosa y Salta, sino también en Paraguay y Bolivia (sumando más de 15.000 personas) son imprevisibles. La preocupación mayor de las comunidades gira en torno al pescado, una de las principales fuentes de subsistencia de los indígenas, el que sería afectado en sus migraciones anuales. A pesar de los reiterados pedidos de las organizaciones indígenas de la zona de ser consultadas, se nota con cuanta facilidad las autoridades proceden con total ignorancia de la Constitución Nacional que asegura a los pueblos indígenas «su participación en la gestión referida a sus recursos naturales y a los demás intereses que los afecten» (Art. 75, inc. 17). Por el contrario, en toda la zona, Gendarmería Nacional tiene órdenes de vigilar las actividades de las organizaciones indígenas (como Thaka Honhat)

y se hace correr rumores de que los indios de los tres países limítrofes están queriendo crear un estado separado, acusación totalmente falsa.

Es importante mencionar aquí que la necesidad en la que se encuentran los diversos pueblos indígenas de los tres países de tratarse uno con el otro, ha surgido en los últimos tiempos justamente por proyectos internacionales que afectan a todos los habitantes del río Pilcomayo. Además del puente en Nop'ok 'Wet, los canales y el dique interceptor, todos hechos sin consulta a los pueblos indígenas afectados, ahora se propone construir una represa faraónica sobre el Pilcomayo a 15 kms. al noroeste del pueblo de Villa Montes en Bolivia. Tendría una altura de 160 m. e inundaría 36.850 has. Se argumenta que esta obra estabilizaría el caudal del Pilcomayo, reduciendo el arrastre de sedimentos, pero los motivos económicos son la generación de electricidad y el riego de tierras para la agricultura intensiva en los tres países. De hecho, expulsaría 22 comunidades *guaraníes* del área del embalse (en Bolivia) y quitaría durante varios años el caudal de agua, y probablemente el pescado, del que dependen numerosas comunidades *wichi*, *toba*, *chorote*, y *nivaklé*, que viven a lo largo del río en Bolivia, Paraguay y Argentina. Alertados sobre el peligro de este proyecto, representantes indígenas de los tres países se reunieron en Yacuiba, Bolivia, en el mes de noviembre del año pasado para escuchar los informes de los técnicos y plantear sus propias preocupaciones.

El tipo de reacción mencionada arriba, o pueril o maquiavélica, de ver un Tupac Amaru detrás de cada reclamo, se repite alrededor del país. En el sur, donde los *mapuches* tienen una tradición de organización dentro del Estado Argentino mucho más fuerte de la que se ha dado entre los pueblos del Chaco, el caso de la Corporación Interestadual Pulmarí, en la Provincia de Neuquén hace manifiesta la misma actitud política que niega a los indígenas los derechos establecidos en la Constitución Nacional. La mencionada Corporación se creó hace unos siete años atrás para administrar 110.000 has. de tierras del Estado para el beneficio de las 6 comunidades *mapuches* que viven en ellas. A raíz de la total carencia de beneficios recibidos, la falta de participación real en la dirección de la Corporación, la públicamente conocida corrupción de la misma y el hecho de que las tierras en realidad son tierras tradicionales de los *mapuches*, se produjo en el mes de mayo del año pasado una ocupación pacífica de las instalaciones de parte de los indígenas.

Posteriormente varios líderes indígenas, incluidos los de la Coordinadora de Organizaciones Mapuches - Tain Kiñegatuam, que apoyó la ocupación, fueron procesados por usurpación. En diciembre el Juez Federal ordenó a Gendarmería Nacional el desalojo de «eventuales ocupantes» y durante los primeros meses de este año se ha ventilado un debate público en el que se ha acusado a la Coordinadora de promover la creación de un estado dentro del Estado. En realidad, lo que piden las comunidades es el reconocimiento del derecho a sus tierras, el control sobre sus recursos naturales y el derecho a manejar sus asuntos internos. Evidentemente existe un miedo desmesurado de un movimiento separatista, insinuando (¡pueril o maquiavélicamente!) una comparación con Chiapas y cuestionando los vínculos internacionales que mantiene la Coordinadora.

Ese miedo bien lo expresó un legislador neuquino en su comentario, en el mes de febrero pasado, a una comisión de la Legislatura Provincial, que estudiaba el caso de Pulmarí, cuando dijo «ha llegado la hora de desarrollar una verdadera política de integración y contención de los mapuches, a mediano y largo plazo». Bajo esta consigna se propone implementar un sistema educativo «especial», ¡con el objetivo de acentuar el sentimiento de argentinidad entre los chicos mapuches! Evidentemente las autoridades no se dan cuenta que son exactamente estas actitudes necias y represivas las que obligan a las organizaciones indígenas a recurrir a instancias internacionales en búsqueda de amparo. El resultado en este caso fue que, por gestiones de los mismos mapuches, a fines de marzo llegó una Comisión de observadores internacionales para interiorizarse de la disputa por las tierras en Pulmarí, y otros dos casos puntuales de daño ecológico y usurpación de recursos naturales, que afectan a dos comunidades mapuches en Neuquén.

Vale mencionar aquí que la preocupación a nivel internacional por la situación de los pueblos indígenas en Argentina es general, encontrándose expresión en el mes de febrero pasado en una resolución de urgencia del Parlamento Europeo que exhorta a las autoridades estatales de Argentina a encontrar mecanismos que permitan resolver las disputas territoriales entre el Estado y las comunidades indígenas.

Además de la respuesta represiva, la otra que suele darse es de neto corte asistencialista con el objetivo de enfriar situaciones de conflicto y producir el conformismo. Así en Pulmarí se va gestando un proyecto de unos \$ 4 millones, pero sin ninguna participación

indígena. En el norte, en el Departamento de Ramón Lista, Provincia de Formosa, en la zona afectada por los problemas del río Pilcomayo, se está por implementar un proyecto de más de \$ 8 millones, de los cuales un 64% proviene de la Unión Europea. Si bien este proyecto contempla factores importantes, como mejorar la disponibilidad del agua, el proyecto ha sido ideado desde una oficina lejana, sin la participación de las comunidades afectadas, quienes ya han manifestado su desconformidad con ello y han hecho una propuesta alternativa.

El mismo Instituto Nacional de Asuntos Indígenas (INAI), órgano oficial del Gobierno Nacional, se encuentra en vías de implementar un programa de unos \$ 5 millones para financiar proyectos de vivienda, abastecimiento de agua y «acompañantes» no indígenas, sin dar una respuesta a las demandas más urgentes de todos los pueblos indígenas relacionadas a la posesión de sus tierras y el control de sus recursos naturales. Aquí corresponde preguntar ¿qué participación tienen las grandes instituciones financieras, como el Banco Interamericano de Desarrollo, el Banco Mundial y la Comisión Europea en apoyar políticas contrarias a los intereses de los pueblos indígenas?

A los casos ya mencionados de abuso de los derechos indígenas, para no pensar que son los únicos, tendremos que agregar, aún en forma abreviada, otros ejemplos, como:

- el desalojo de una comunidad *mbý'a guaraní* en Misiones, por parte del propio Ministerio de Ecología de esa Provincia
- la destrucción de recursos comunitarios por picadas y/o perforaciones de las compañías petroleras, sin reconocer el derecho indígena a la posesión de sus tierras (en el sur y el norte)
- las corridas de alambrados para adueñarse de tierras indígenas (especialmente en el sur, afectando a comunidades mapuches)
- el corte y robo de madera en tierras indígenas (en Salta, Chaco, Misiones y en Parques Naturales en el sur)
- el robo de piñones, fruta aprovechada por los mapuches (afectando comunidades en varias zonas de Neuquén)
- la demora en implementar la expropiación y entrega de las tierras de los *kollas* de Finca Santiago en la Provincia de Salta
- la falta de garantías a la posesión de las 150.000 has. de tierras de

la Asociación Comunitaria Meguesoxochi del pueblo toba, en la Provincia de Chaco, mediante mensura y la adjudicación definitiva del título de propiedad

- la falta aún de la ratificación y depósito de la firma, por parte del Poder Ejecutivo, del Convenio 169 de la OIT
- los continuos problemas suscitados a raíz de las exigencias de la Dirección General Impositiva (DGI), que afectan especialmente las organizaciones indígenas

En resumen, la mayoría de los pueblos indígenas del país todavía carecen de la propiedad y posesión efectiva de sus tierras, garantizada por la Constitución Nacional, y es urgente un profundo cambio de actitud entre los gobernantes para permitir que los pueblos indígenas participen de verdad en toda gestión referida a sus recursos naturales y a los demás intereses que los afecten.

A este cuadro bastante desalentador de la situación indígena del país, hay que agregar algunas lucecitas de esperanza. En primer lugar, se sigue viendo el crecimiento de organizaciones indígenas en base a sus necesidades reales y locales. Cabe especial mención aquí la fundación a comienzos de este año, después de un largo período de gestación, de la Asamblea del Pueblo Guaraní Argentina, en el noroeste del país, teniendo importantes relaciones de intercambio con otros grupos guaraníes en Misiones, Bolivia y Paraguay.

En este momento existe una iniciativa de varias organizaciones indígenas, con el apoyo de ONGs, de promover una experiencia de consulta a nivel de las comunidades locales, y después regional y nacionalmente, sobre temas vinculados a la implementación de los derechos reconocidos por la Constitución Nacional. El año pasado se logró detener varios proyectos de ley, que estuvieron bajo estudio en el Congreso Nacional, los que pretendieron reformar la actual Ley Nacional, N° 23.302, «Sobre Política Indígena y Apoyo a las Comunidades Aborígenes», pero ignorando completamente la necesidad de consultar a los mismos pueblos afectados.

El crecimiento de la conciencia jurídica sobre los derechos indígenas se manifiesta tanto a nivel de las comunidades indígenas, como en los mismos avances jurídicos. Por ejemplo, en octubre de 1995, la Coordinadora de Organizaciones Mapuches, junto con la Confederación Mapuche, organizaron un Seminario sobre Derecho Indígena que contaba con juristas indígenas y el delegado de la OIT

responsable para la implementación del Convenio 169 en Sudamérica. Asimismo, la XII Conferencia Nacional de Abogados, reunida en la ciudad de Tucumán el año pasado, aprobó una resolución de la Comisión de Derechos de los Pueblos Indígenas, declarando que «el Art. 75, inc. 17 de la Constitución Nacional debe interpretarse como operativo (y no simplemente programático) y conforme al Convenio 169». En la misma línea, cabe notar que algunas Provincias (Chubut, Chaco y la Pampa) han reconocido en sus nuevas constituciones los derechos indígenas incorporados en la Constitución Nacional.

Por último, hay que reconocer que han habido algunas entregas de tierras, aunque en proporción a lo que falta es todavía poco lo que se ha hecho. Aquí se debe mencionar que durante el año pasado, por fin se depositaron los fondos de la Nación, para la expropiación de las tierras de las comunidades kollas de San Andrés en la Provincia de Salta. También en Salta, se entregaron los títulos de unas 23.000 has. de tierras fiscales a 5 comunidades wichi.

CHILE

Acontecimientos relativos a los pueblos indígenas y sus derechos

El estado chileno se caracteriza por su naturaleza institucional uniformante, avasallante y unilateral con los pueblos indígenas y sus derechos. Los gobernantes mayoritariamente han pretendido negar la existencia de los pueblos indígenas. El régimen militar que comenzó en 1973 y duró hasta 1990, retrata muy elocuentemente al estado chileno, el cual impuso el decreto de Ley 2568 sobre división de las tierras, que muy claramente mencionaba, «las tierras que se dividen dejan de ser indígenas y sus ocupantes», además bastaba que un integrante u ocupante de la comunidad solicitara la división de las tierras para que se ejecutara la división. Este proceso jurídicamente también se le llamó «Liquidación de las comunidades», de esta forma se sintetiza una de las tantas leyes que han afectado negativamente a los pueblos indígenas, en donde se manifiesta el carácter represivo y unificador del estado chileno y su ordenamiento jurídico.

En Chile, alcanzar el reconocimiento constitucional de los pueblos indígenas y sus derechos, es algo fuera de toda lógica por parte de cualquier gobierno de turno, el derecho a participar con decisión, es un derecho que está reservado para una elite política, que se

ha visto reforzada con la constitución política de 1980, cuerpo jurídico fundado bajo una concepción ideológica de un régimen militar, en donde no tienen cabida las diferencias culturales, ni los derechos de los pueblos indígenas. La constitución señala que en «Chile sólo existen chilenos y el idioma oficial es el castellano», el reconocimiento a los pueblos indígenas, es un derecho que está vetado. Sobre esta realidad no habría que sorprenderse porque desde las primeras constituciones políticas que dan origen al estado chileno siempre se negó la existencia de los pueblos indígenas; sin embargo esta realidad se ve constatada cuando esos mismos gobiernos que negaban a los pueblos indígenas, por otro lado aprobaban decretos y leyes tendientes a dividir las tierras indígenas o ejecutar un desalojo bajo el pretexto del progreso, término que en aquel tiempo se ajustaba a la realidad histórica política. Hoy ese lenguaje a sido sustituido por el concepto de desarrollo y de modernismo.

Si buscamos antecedentes históricos sobre las leyes que han reconocido los derechos de los pueblos indígenas, desde la conformación del estado chileno, éstas son muy escasas, de la misma manera, muy pocas son las leyes indigenistas que se han promulgado durante los últimos tres decenios, sólo podemos citar la ley 17729 y la última, la 19253 aprobada en 1993 bajo el gobierno de la concertación de partidos políticos. Esta última, por los fines que representa y por encontrarse en vigencia, la analizaremos en algunos de sus aspectos más importantes.

Tratado de Libre Comercio-Nafta y los pueblos indígenas.

El gobierno Chileno había definido a 1995, como el año decisivo para su ingreso al Tratado de Libre Comercio-TLC-NAFTA, esta decisión pareciera que no tiene relación con los pueblos indígenas y sus derechos; sin embargo luego de un profundo análisis afirmamos que, efectivamente los acuerdos económicos multilaterales que están impulsando los gobiernos, tienen un impacto negativo frente a los derechos de los pueblos indígenas, que se manifiestan en el orden jurídico, económico, político y cultural.

Los acuerdos económicos multilaterales por su naturaleza y sus fines, son el nuevo colonialismo que están enfrentando los pueblos indígenas, cuyos acuerdos no tienen un carácter violento, ni se aplican mediante la fuerza. Por tener estas características, es más difícil distinguir sus impactos inmediatos, por lo tanto, son más

efectivos que cualquier despojo violento. En el orden jurídico, luego que un país ingresa al TLC-NAFTA, por ser un acuerdo previamente definido, las leyes nacionales comienzan a sufrir modificaciones internas, que obligan a ajustarse a los intereses del TLC-NAFTA. Desde un punto de vista interno, las leyes van perdiendo gradualmente fuerza, y finalmente prevalece el convenio que regula el TLC-Nafta. El ejemplo más evidente, es el caso de México en donde el gobierno tuvo que modificar el artículo de la constitución política relativo a los derechos de la tierra, que estaban garantizados como tierras comunales y luego pasaron a ser consideradas como tierras divisibles. Este cambio obedece a las exigencias de los acuerdos económicos que imponen las políticas neoliberales. Ante estos cambios de debilitamiento de las leyes nacionales, entramos en una abierta contradicción con las aspiraciones de derechos de los pueblos indígenas. En el campo jurídico muchos pueblos indígenas vienen impulsando una creciente movilización para alcanzar el reconocimiento de sus derechos. Si los acuerdos económicos van debilitando las constituciones y las leyes nacionales, entonces todo reconocimiento constitucional que se alcanzara en el futuro comenzará a perder fuerza, no logrando un impacto favorable a los derechos de los pueblos indígenas.

Los pueblos indígenas vienen afirmando sus derechos ancestrales que les asisten, sobre los recursos naturales existentes en sus territorios. Los acuerdos económicos, por tener un carácter de acumulación de riqueza en base a la explotación de los recursos naturales, afectarán directamente a esos derechos que con mucha legitimidad vienen reclamando.

En la ciudad de Temuco, se realizó una Conferencia Mapuche con el objeto de identificar la naturaleza y fines de los acuerdos económicos multilaterales; así como su impacto sobre la cultura *mapuche*. Luego de haber constatado sus implicancias en el futuro indígena, se inició una campaña a nivel nacional e internacional en la perspectiva de alcanzar la inclusión de una cláusula con el objeto de garantizar los derechos de los pueblos indígenas ante el TLC-Nafta.

En el contexto internacional, se sostuvieron una serie de reuniones con senadores de EE.UU. y Canadá. Considerando que ambos países son propiciadores del TLC-NAFTA, se hizo notar que en Chile no se está haciendo participar al pueblo chileno, ni a los pueblos indígenas, sino más bien el interés de integrar el TLC-Nafta sólo comprende los intereses de los empresarios y del gobierno. Las

reuniones sirvieron para poner en conocimiento de la existencia de los pueblos indígenas, la falta de participación, la disconformidad con el TLC y la falta de garantías de los derechos indígenas.

Amenaza de desalojo y exterminio cultural.

En el mes de abril, la comunidad Juan Currin, ubicada en la comuna de Temuco, provincia de Cautin, comenzó a movilizarse para impedir la ejecución de una orden de desalojo dictada por un juez en su contra. Con este propósito, realizaron una serie de reuniones con las distintas instancias gubernamentales de la región, sostuvieron conversaciones con el gobernador, el intendente de la IX Región y finalmente con la Conadi. Los motivos que originaron las movilizaciones fueron impedir el desalojo de las últimas tierras que les quedan como resultado de la usurpación permanente que han sido objeto; el restablecimiento del cementerio en donde se encuentran sus familiares directos; el reconocimiento de las actuales tierras que poseen como perteneciente a la Comunidad Juan Currin. El objetivo de mayor importancia en ese momento fue impedir el desalojo. La Conadi exigió como primer requisito para atenderlo, constituirse en base a la ley Indigenista 19253. Ante la indecisión de parte de la Conadi para buscar una solución al desalojo, la comunidad, como forma de presión, decidió ocupar la sede de este organismo gubernamental. Allí permanecieron durante tres días, al cuarto día el director de la Conadi solicitó la fuerza de carabineros para ejecutar el desalojo. La acción se ejecutó a las 5 de la mañana, y se detuvo a 14 personas, entre ellos siete niños que fluctúan entre 3 a 11 años de edad. El desalojo sigue pendiente en contra de la comunidad. En este caso se encuentran comprometidos los intereses de un empresario de la región, quien ha usurpado las tierras a la comunidad. Por otro lado, el espacio territorial de la comunidad fue declarado unilateralmente por el gobierno como área urbana, desconociendo el carácter de comunidad mapuche de las tierras y sus dueños.

Empresas forestales trasnacionales de EEUU y Nueva Zelanda ocupan tierras mapuche

En el mes de mayo, siete comunidades mapuche de la comuna de Collipulli, provincia de Malleco, en una acción coordinada impidieron el ingreso de la empresa forestal Simpson Paiper de origen estadounidense, cuando tomaba posesión, con maquinarias de alta tecnología, para realizar la forestación de las tierras. Las comunida-

des comenzaron a organizarse para impedir el ingreso de la compañía porque las tierras que ha adquirido la empresa, son tierras que están incluidas en los títulos de merced reconocido por el propio estado chileno a principio del presente siglo y que fueron usurpadas por la fuerza y la violencia por parte de particulares ajenos a la comunidad. La empresa, al tomar conocimiento de la decisión de las comunidades, solicitó la presencia de carabineros, con el objeto de persuadir la voluntad de los participantes. Ante la firme decisión de los mapuches, comenzó una etapa de diálogo entre los representantes de la empresa forestal y las comunidades. Posteriormente, las comunidades concurren a la intendencia regional, la cual solicitó a la Conadi para que agilice los trámites y busque los fondos económicos para adquirir las tierras que están en conflicto.

En el mes de junio, 5 comunidades de la misma comuna y provincia anterior, entraron en un fuerte conflicto de tierras con la empresa forestal Mininco, de origen y capitales de Nueva Zelanda. Las comunidades impidieron la toma de posesión y forestación de las tierras por la empresa. Esta también tuvo la misma actitud que la anterior, solicitando la presencia de carabineros. Ante la imposibilidad de hacer cambiar de parecer a los mapuches respecto de su acción, retiraron sus maquinarias. Posteriormente, para cumplir sus planes trajeron un autobús de personas no indígenas para comenzar la forestación, hecho que también fue rechazado por las comunidades. Éstas llevaron el caso ante la Intendencia de la IX región, la cual lo dirigió nuevamente a la Conadi para que solicitara los recursos económicos que ofrece el Estado, como su fórmula para solucionar el conflicto de tierras. En ambos casos el organismo estatal Conadi ha dejado a las comunidades en una situación de posibilidad de adquirir las tierras.

Elecciones simbólicas de la Conadi

En el mes de mayo, se realizaron elecciones simbólicas de la Conadi, para buscar la convalidación por parte de los indígenas, del organismo Estatal que ha creado la Ley Indígena como es la Corporación Nacional de Desarrollo Indígena (Conadi). Con las elecciones se ha expresado en la forma más evidente, la subordinación ideológica y política a la que han llevado a los pueblos indígenas mediante la legislación Indigenista 19253. Según la Ley, el Presidente de la República nombra al director y a los dos subdirectores de la Conadi. El requisito elemental para ocupar los cargos, es que

deben gozar de la confianza plena del presidente de la República, el nombramiento es una decisión política partidaria. Es la forma más arbitraria que ha adoptado el gobierno chileno para establecer un marco de relación con los pueblos indígenas, quedando totalmente ausente el derecho a la participación con decisión, el derecho a la autonomía y la autodeterminación.

La Ley reconoce la posibilidad de constituir una contraparte. Con este fin se hicieron las elecciones, para conformar el Concejo de la Conadi, el número de votantes no es un elemento determinante, sino las negociaciones partidarias. La Conadi por su características de extensión del estado chileno sobre los pueblos indígenas, se ha convertido en el mejor instrumento institucional para la subordinación indígena.

El gobierno, a través de la Conadi, viene asignando recursos económicos para la adquisición de tierras mediante el Fondo de Tierras que establece la Ley Indígena. Este sistema consiste en un subsidio que otorga el Estado, en donde un indígena o una comunidad formula su petición a la Conadi. Esta fórmula es la medida más eficaz para la compra de tierras entre los mapuches de una misma comunidad. La compra de tierras entre un chileno latifundista y un indígena, no ha sido fácil porque todo queda a voluntad del vendedor. Además existe un abierto rechazo al indígena, no habiendo disposición de entrar en relación con un indígena interesado por comprar las misma tierras que le han usurpado.

Reunión de los presidentes en territorio mapuche

Los días 14 al 16 de octubre del 95 en la ciudad de Bariloche, estado de Argentina, se realizó la Cumbre de los Presidentes de los Estados-Gobiernos de Latinoamérica. Los temas que se trataron fueron: integración latinoamericana, educación, crisis mexicana y Cuba. En vista que la conferencia se realizó en el territorio mapuche hoy ocupado por el estado argentino, la organización Concejo de Todas las Tierras y la coordinadora de organizaciones mapuches de Argentina, *Tain Kinequetuam*, se convocaron en esa ciudad con el propósito de manifestar su punto de vista en el marco de los acuerdos políticos, económicos que vienen adoptando los gobiernos a nivel regional. Las organizaciones mapuche concurrieron para presentar un documento. Ante la imposibilidad de hacerlo por el gran cerco policial, se emitió una declaración que dice:

«Manifestamos nuestra preocupación por las consecutivas reuniones que se vienen realizando en el continente, en donde se concluye con un conjunto de decisiones que afectan directamente a los derechos, la cultura y el futuro de los Pueblos Indígenas. Cualquier acuerdo político, económico de orden multilateral referente a la integración, al desarrollo y la justicia social impulsada por los Estados, deben tener presente a los Pueblos Indígenas y sus derechos. La justicia, la libertad, la democracia y la participación en cuanto a los Pueblos Indígenas a nivel continental sigue siendo un desafío por resolver, por parte de los gobiernos que no han mostrado una apertura suficiente con los Pueblos Indígenas, sus instituciones siguen siendo uniformantes para un real y efectivo avance en el reconocimiento de los derechos Indígenas».

Construirán dos carreteras sobre tierras mapuche

Durante el 95 se anunció que dos carreteras atravesarán tierras mapuche. La carretera de la costa se ha comenzado a construir y tiene como meta unir las ciudades de Concepción y Valdivia, es decir, la VIII, IX y X Región. En este momento, su ejecución comenzará a entrar a las comunidades *lafqueche* de Isla Huapi-Mapuche del Mar. Este espacio territorial y sus habitantes se caracteriza por ser la zona más densamente habitada por mapuches, son las comunidades en donde más se mantiene y se habla el *mapudugun*-Habla de la Tierra- y tienen muy viva la arquitectura mapuche. Para asegurar que la carretera siga su curso, las autoridades regionales, junto a la Conadi, han realizado un intenso trabajo para convencer a las comunidades que la carretera traerá beneficio a sus habitantes. En el mes de diciembre, todas las Secretarías Ministeriales de la región volcaron su esfuerzo para proponer la agrupación de las comunidades en un villorrio. Las comunidades, ante la inminente amenaza, han comenzado a organizarse para manifestar su rechazo.

A fines del año 95 se anunció públicamente otro proyecto, conocido como el By Pass de Temuco, que consiste en una construcción de una carretera que evite pasar por el centro de la ciudad de Temuco, ciudad capital de mayor presencia mapuche en el país. Las 22 comunidades que serán afectadas el 5 de diciembre realizaron una pública manifestación en contra de dicho proyecto.

Los motivos que se destacan como argumento de parte del gobierno para la construcción de las carreteras, son que contribuirán al turismo regional, al desarrollo y al modernismo. En este campo ha surgido un duro cuestionamiento de parte de las comunidades

de las implicancias negativas que ha tenido el modernismo para el desarrollo de la cultura mapuche. El Aeropuerto de Maquehue, que se encuentra en el corazón de las comunidades Mapuche, en su tiempo se construyó bajo el pretexto del progreso, sin embargo las comunidades mapuche no han sido beneficiadas de ese progreso y desarrollo, al contrario ha aumentado la usurpación de tierras y el empobrecimiento económico.

La carretera no podría seguir construyéndose, porque la Ley Indígena del estado chileno, declara las pocas tierras que les quedan a las comunidades como inalienables. Desde el momento que se construyan ambas carreteras sobre las tierras mapuche, estaríamos frente a una clara violación de la propia ley Indígena. La incertidumbre final será si prevalecerá la ley Indigenista o los intereses económicos que representan las carreteras.

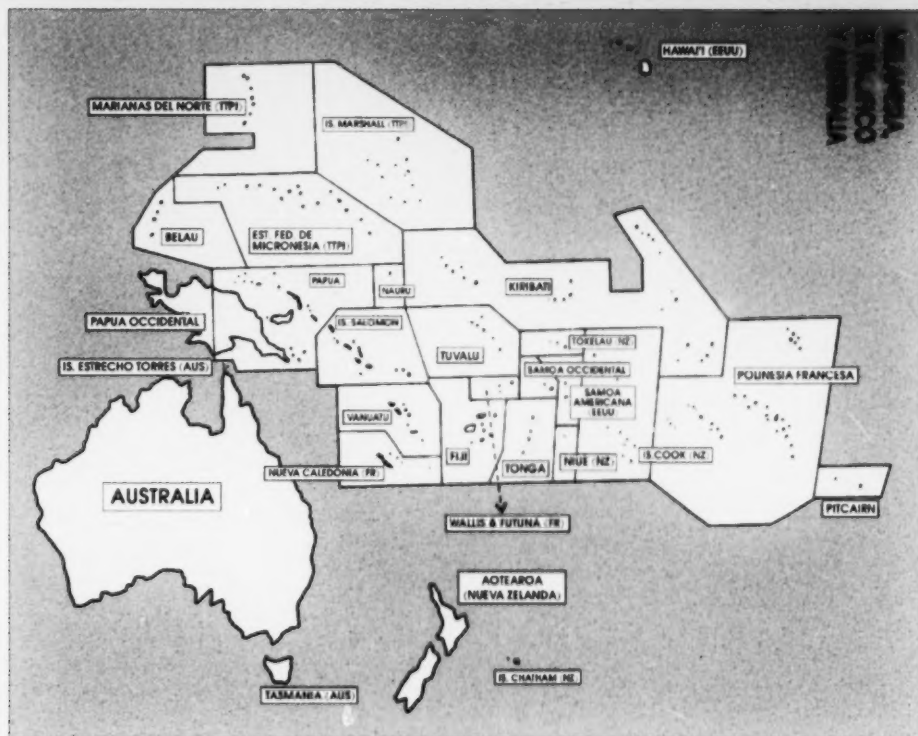
Corte de Apelaciones de Temuco confirmó sentencia en contra de 144 mapuche por usurpación de tierras y asociación ilícita

Las comunidades mapuche que habían impulsado la recuperación de tierras usurpadas, fueron sentenciadas por el Ministro en Vista y luego confirmado por la Corte de Apelaciones de Temuco. Las comunidades, estando firmemente convencidas que no han cometido ningún delito, apelaron a la Corte Suprema bajo un recurso de Casación.

El caso fue visto el 19 de marzo en la Corte Suprema, allí se confirmó nuevamente la condena de 541 días por asociación ilícita y 10 sueldos vitales (U\$150) por cada uno por usurpación de tierras. Los afectados presentarán una denuncia a la Comisión Interamericana de Derechos Humanos, en lo posible a la Corte Interamericana de Derechos Humanos. Es el primer caso indígena de Chile que se presenta a un tribunal internacional en donde se denuncia al gobierno como responsable de violación de derechos indígenas.

Fuentes:

World Rainforest Movement
CIMI (Brasil)
Nuestra Amazonía (COICA)
Tierraviva
IBIS (Bolivia)
Coordinadora Mapuche
Consejo de Todas las Tierras
IPSS



EL PACÍFICO Y AUSTRALIA

IWGIA está actualmente actualizando su red de contactos en el Pacífico para suministrar una información más detallada sobre los acontecimientos relativos a los pueblos indígenas y naciones del Pacífico, así como para apoyar sus luchas contra la opresión. A continuación brindamos un bosquejo de algunas tendencias generales en el desarrollo de la situación y los derechos indígenas.

El Comité de Descolonización de las Naciones Unidas celebrará un seminario Regional sobre el Pacífico en Puerto Moresby, en Papúa Nueva Guinea, del 12 al 14 de junio de 1996. El propósito es evaluar el grado de autodeterminación para el año 2000 de los territorios que carecen de gobierno propio. En la región del Pacífico, el llamado «Comité de los 24» vigila los procesos conducentes a la descolonización de Kanaky (llamado territorio francés de ultramar, con una historia de descolonización muy problemática y desalentadora), Tokelau (un territorio neozelandés gobernado desde Apia, en Sàmoa Occidental), Timor Oriental (una posesión portuguesa) y los territorios americanos no incorporados de Sàmoa Americana (territorio no incorporado y no organizado, es decir: Sàmoa no tiene una constitución reconocida por los Estados Unidos) y Guam (en vías a un estatus de miembro de la Comunidad de Naciones de los EE.UU.).

El Decenio Internacional por la Erradicación del Colonialismo acaba en el año 2000, y especialmente Francia, Gran Bretaña y los Estados Unidos (comparar con la lista de naciones en proceso de descolonización) han exigido poner fin al trabajo del Comité, argumentando que ya no hay mucho trabajo para hacer.

Sin embargo, la situación en Tahití (una colonia francesa y zona de pruebas nucleares) y Bougainville (que desea la independencia

de Papúa Nueva Guinea), plantean ejemplos que ilustran dos tipos diferentes de colonias, mostrando que hay todavía mucho trabajo para hacer: las colonias «externas» de los antiguos poderes coloniales occidentales y las colonias «internas» de los estados nacionales, que incluyen muchos pueblos indígenas.

Tahití, las Marquesas, las Islas Australes, las Islas Gambier y Tuamotu, cada una de las cuales constituyen una o más naciones isleñas del Pacífico, son todas parte de la Polinesia Francesa, un territorio de ultramar de la República Francesa. Alegan ser parte de Francia, aunque están ubicadas bastante lejos. También los 15.000 habitantes de Wallis/Futuna son ciudadanos franceses, gobernados localmente por un administrador francés, quien encabeza un concejo que consta de él y tres reyes, de cada uno de los tres reinos de las dos islas.

Rapanui es una provincia chilena, la Isla Pitcairn una colonia británica y las Islas Norfolk son parte de Australia.

Las Marianas septentrionales son de la Comunidad de Naciones de los EE.UU., Midway, Wake, Johnston y otros grupos de islas son territorios no incorporados, directamente bajo la administración del gobierno de los EE.UU. Las Islas Marshall y los Estados Federados de Micronesia son semiautónomos en asociación libre con los Estados Unidos. Hawai'i está, desde un punto de vista del Pacífico, también incorporado a los EE. UU. Belau es ahora una nación independiente y, desde diciembre de 1994, el 185º estado miembro de las Naciones Unidas. Se necesitaron 14 votaciones (incluyendo aquellas sobre las constituciones) para alcanzar la independencia de los EE.UU. y un contrato de libre asociación con el mismo país, a causa de una previsión de la constitución que establece a Belau como territorio libre de armas y pruebas nucleares.

Las Islas Cook y Niue gozan de autogestión en asociación libre con Nueva Zelanda. Esta forma de libre asociación es diferente de la antes mencionada, porque un cambio en la constitución local es suficiente para cortar las relaciones con el anterior poder colonial. También muchos *maorí* se consideran parte de una nación pasible de descolonización. En un *hui* (reunión) reciente de más de 1.500 *maorí* de toda Aotearoa (Nueva Zelanda), los representantes solicitaron cambios constitucionales basados en el estatus *maorí* como un pueblo independiente víctima de la colonización.

En general, las naciones de las islas del Pacífico en proceso de descolonización, o recientemente descolonizadas, están enfrentan-

do serias crisis económicas pues la financiación que acompaña a la retirada (parcial) de los poderes coloniales se reduce gradualmente. Alternativas tales como la explotación maderera, la minería, el turismo y la industria de la pesca parecen beneficiar más a los inversores extranjeros y vacían los recursos de las islas.

La cuestión del control sobre la tierra y los tipos de tenencia de la tierra siguen siendo de importancia fundamental para la mayoría de las naciones isleñas del Pacífico. En Aotearoa, acuerdos privados relacionados con el Tratado Waitangi están vaciando los fondos y establecen malos precedentes para futuros «acuerdos» al excluir las tierras dedicadas a la conservación (un tercio del país) de los acuerdos. La mayoría de las demandas tribales incluyen, por supuesto, grandes áreas de tierras dedicadas a la conservación. Entretanto, los maorí continúa re-ocupando sus tierras ancestrales, y discutiendo los derechos y la soberanía maorí.

Algo similar ocurre en Tahití. Las pruebas nucleares francesas «Gran Final» en 1995-96 en Moruroa y Fangataufa, que constaron de casi 200 pruebas, desde 1966 han dirigido la atención mundial a la situación del pueblo de Tahití. Se explotaron 45 artefactos nucleares en el aire, el resto en pruebas subterráneas bajo el atolón de coral o en la laguna. Los científicos predicen filtraciones de desechos radiactivos de los sitios de prueba subterráneos a las aguas y al aire circundantes. Aunque las estadísticas de la salud de los *tahitianos* expuestos a radiación son confidenciales, se sabe de brotes epidémicos en las comunidades circundantes como resultado de las pruebas, con síntomas que incluyen daños al sistema nervioso, parálisis, daños a la vista e índices mayores de cáncer, particularmente entre los tahitianos. Se ha prohibido comer pescado, pero como un trabajador civil testificó en 1990: «se prohíbe todavía pescar en Moruroa, pero no se puede impedir que los polinesios coman pescado» (cita de Ka Mana o Ka'ina 1995).

La tragedia de la exposición a la radiación nuclear en el Pacífico está documentada claramente por el pueblo de las Islas Marshall. La exposición a la radiación experimentada por los habitantes de Bikini, Rongelap, Uterik y otro atolones han aparejado gran sufrimiento y muerte a muchos. Los severos problemas de salud continúan plagando durante generaciones. Los tumores tiroideos y muchos tipos de cáncer, incluso leucemia, abortos, y defectos de nacimiento, resultantes de la exposición a la radiación nuclear, son experiencias de todos los días en las vidas del pueblo de las Islas

Marshall como resultado de las pruebas nucleares atmosféricas de los EE.UU. de 1946 a 1958. Los hallazgos recientes de médicos japoneses relativos a que el cuarenta por ciento de los isleños de Rongelap tendrían cáncer, han alarmado mucho a los habitantes de las islas Marshall y aumentaron el número de demandas presentadas ante el Tribunal de Demandas Nucleares, pero no impidieron al primer ministro proponer usar sus «atolones radiactivos» (que no se pueden usar para ningún otro propósito por «diez mil años») como un vertedero nuclear internacional, el cual implicaría grandes beneficios monetarios para el gobierno. Los concejos locales y los isleños han rechazado la sugerencia en forma abrumadora.

La cuestión de los derechos humanos de los pueblos indígenas del Pacífico ha sido actualizada por las pruebas nucleares francesas, pero también por el patentado por parte de agencias gubernamentales de los EE.UU., de líneas celulares-T humanas de los *hagahai* (un pueblo de la provincia de Madang de Papúa Nueva Guinea) y de una mujer de la Laguna de Marovo y un hombre de la provincia de Guadalcanal de las Islas Salomón (ver Asuntos Indígenas 1995(4):8-13).

Al examinar la situación en el Pacífico, igual que en muchos otros lugares, los derechos de los pueblos indígenas se entremezclan con los derechos de las naciones. Pero importantes estados nacionales, influyentes miembros de las Naciones Unidas, son renuentes a reconocer la necesidad de una descolonización dentro de las (a menudo arbitrarias) fronteras de los estados nacionales, relegando esta materia a los asuntos interiores y no considerándola un asunto de interés internacional que requiere la atención de los Comités de la ONU. Esto está relacionado con la renuencia para aceptar los derechos colectivos para los grupos indígenas como pueblos, como está quedando cada vez más claro en las deliberaciones del grupo de trabajo especial abierto bajo la Comisión de Derechos Humanos para elaborar la Propuesta de Declaración de los Derechos de los Pueblos Indígenas, que celebró su primera reunión en noviembre de 1995.

HAWAII

Para muchos *kānaka maoli* (los indígenas de Hawa'i'i), 1995-96 ha sido un año marcado por los procedimientos del Concejo de las Elecciones por la Soberanía de Hawa'i'i (HSEC) de creación estatal, ya sea a favor o en contra de su proyecto. A pesar de retrasos y

fuerte oposición entre los k naka maoli, muchos de los cuales son l deres del movimiento por la soberan a, los miembros del concejo, en su mayor a nombrados por el Gobernador, est n procediendo a enviar papeletas electorales a los votantes (personas que alegan linaje hawaiano) con la pregunta: « Deben los hawaianos elegir delegados para proponer un gobierno Nativo Hawaiano?» La «Coalici n para Detener el Plebiscito Patrocinado por el Estado», de amplia base popular, alienta decididamente un boicot del «voto nativo hawaiano», el cual, despu s de cr ticas que destacaron las implicaciones legales internacionales, ahora es el t rmino usado por el HSEC en lugar de «plebiscito» (ver *El Mundo Ind gena* 1994-95:105-02). Pero seg n respetados abogados internacionales, este cambio de nombre no cambia el car cter del voto: es un refer ndum que se puede interpretar en el derecho internacional como que los k naka maoli han renunciado voluntariamente su derecho a la soberan a. Este derecho fue por primera vez reconocido por el gobierno de los Estados Unidos en la Resoluci n de Disculpa de 1993 (ver *El Mundo Ind gena* 1993-94:78-81). Una organizaci n conocida internacionalmente viene a Hawai'i en junio de 1996, para investigar la legalidad del voto.

Entretanto, los opositores al voto buscan otras formas de avanzar hacia la soberan a de base popular. El grupo m s grande del movimiento por los derechos hawaianos, Ka L hui Hawai'i, ha iniciado un proceso para lograr un consenso, un proyecto educativo y de planificaci n a largo plazo, y una agrupaci n de muchos grupos diferentes. El proceso es llamado «El Puwalu del Pueblo» («Todos Juntos») y est  juntando gente proveniente de diferentes partes de la comunidad kanaka maoli en un di logo abierto. Las reuniones se realizan en diferentes localidades - ning n peque o logro, considerando los costos de viaje entre las islas (hoy casi exclusivamente hecho por aire) y ha encarado hasta ahora temas importantes relativos a la tierra, al agua, los recursos naturales y culturales, la espiritualidad y los derechos culturales k naka maoli.

El Departamento del Territorio Hawaiano, que administra aproximadamente 200.000 acres de tierra supuestamente en beneficio de los nativos hawaianos, ha completado finalmente, despu s de m s de setenta a os, un inventario de tierras y ha empezado el proceso de recobrar tierras «perdidas» en el transcurso del tiempo. Hay todav a mucho por hacer, ya que en todos los a os de la existencia del programa s lo se ha otorgado a los beneficiarios

aproximadamente el diecisiete por ciento de la tierra. Se ha arrendado el resto por sumas nominales principalmente a personas no hawaianas. El estado de Hawai'i ha aprobado también el pago de seiscientos millones de dólares durante un período de veinte años para solucionar las demandas por violaciones del fondo fiduciario de Vivienda Hawaiano. Todavía no está establecido de dónde provendrán estos. El gobierno federal también ha reconocido algunas responsabilidades fiduciarias y está negociando indemnizaciones. Considerando que el costo de vida en Hawai'i, sobre todo de la vivienda, es uno de los más altos de los Estados Unidos, la única manera para muchas familias kánaka maoli de conseguir vivienda es esperar un lote de vivienda. Desgraciadamente, muchos han muerto, mientras todavía estaban en la lista de espera.

En enero de 1996, el Programa Hawaiano de Vivienda se confrontó con una protesta trágica contra muchos años de negligencia en la calidad de la vivienda. Delante de numerosos funcionarios y otros beneficiarios del programa, Kahale Smith del Núcleo de Viviendas de Anahola, Kaua'i, prendió fuego a su casa y a sí mismo, al ser desahuciado por el Departamento del Territorio Hawaiano. Su muerte testifica la situación desesperada de muchos kánaka maoli.

Muchos indígenas hawaianos resuelven el problema de los altos precios de la vivienda, viviendo en la playa en tiendas de campaña o casas pequeñas. Uno de esos grupos de personas vive en la boca del valle Mākua en el extremo occidental de O'ahu. Se les notificó su evicción el 15 de abril de 1996. La amenazada evicción fue más tarde pospuesta para el 15 de junio, para permitir que los niños terminaran el año escolar. El valle Mākua (tierras «cedidas», ver más adelante) fue apropiado por el ejército bajo la ley marcial de la Segunda Guerra Mundial. A pesar de las protestas de funcionarios del estado, pasaron muchos años antes que las autoridades federales negociaran finalmente un contrato de arrendamiento. Desde entonces se ha usado el valle para ejercicios de bombardeo y otras maniobras militares. La gente de Mākua dice «vivimos en tierras cedidas. El estado de Hawai'i es responsable frente al Pueblo Nativo Hawaiano por las tierras cedidas que tienen en administración. Nosotros sólo queremos vivir en paz y dignidad, como custodios, como guardianes de la tierra, tal como nuestros antepasados» (Comunicado de prensa del Concejo Mākua, abril de 1996).

En Honokhau, en la isla de Hawai'i, otro grupo es amenazado de evicción. La *pai ʻēhana* (familia) ha vivido y cuidado de su tierra y mar ancestral de Honokhauiki desde antes de que los occidentales supieran de la existencia de Hawai'i. Son los descendientes vivos de los habitantes originales, una familia pescadora con una relación íntima, conocimiento y responsabilidad sobre el área. Los miembros de la *pai ʻēhana* comparte generosamente su conocimiento en programas culturales y encuentros, pero el Servicio del Parque Nacional, que administra el Parque Histórico Nacional Kaloko-Honokhau para el gobierno federal, no los quiere en las tierras. Las notificaciones de evicción han sido presentadas y retiradas, y muchos grupos locales apoyan a la familia en su continuada permanencia en la tierra.

Uno de los fuertes partidarios del pueblo en las luchas por la tierra es la Alianza para la Acción Ahupua'a, una alianza única que consta de aproximadamente cincuenta grupos locales ambientales y *kānaka maoli* que se han unido para proteger el ecosistema costero, marino y de las cuencas de Hawai'i, y los derechos y tradicionales culturales *kanaka maoli* vinculados a los mismos, de la crisis ambiental que enfrenta Hawai'i. La Alianza para la Acción Ahupua'a propone una ley que ahora está pendiente en la legislatura, que inserta una garantía de inclusión de evaluaciones de impacto cultural en la ley referente a las evaluaciones del impacto ambiental. Esta ley ha sido recientemente vetada por el Gobernador de Hawai'i, quizás en un esfuerzo para controlar las implicaciones de una reciente decisión de la Corte Suprema del Estado que afirmó los derechos nativos hawaianos y las obligaciones legales de los gobiernos estatales y municipales, constitucionales, estatutarias, y consuetudinarias para proteger y preservar las prácticas tradicionales y consuetudinarias de los nativos hawaianos. La decisión sostuvo que el derecho de los nativos hawaianos a practicar actividades tradicionales en tierras de propiedad privada siempre ha sido acorde a la ley de Hawai'i. Se encomendó a las autoridades considerar los derechos nativos hawaianos en el procesamiento de los permisos requeridos para proyectos de desarrollo. Esta sentencia es un importante desafío al concepto occidental de propiedad, descrito popularmente entre los expertos legales como «un legado de derechos». En el caso de Hawai'i, basado en leyes casi inalteradas durante ciento cincuenta años, el legado no incluye el derecho a excluir a otros (es decir: nativos hawaianos) de tierras de propiedad

privada. Éste es un desafío importante al sistema legal y político que parece estar dispuesto a combatirlo.

Otra decisión, muy apreciada por los indígenas hawaianos, pone fin a la venta de tierras públicas. Las tierras públicas de Hawai'i provienen de tierras «cedidas» a los Estados Unidos por la auto-proclamada «República de Hawai'i» cuando alcanzó la deseada anexión a los Estados Unidos hace casi un siglo. La «República» era una entidad ilegal que surgió después de que un grupo de hombres de negocios en su mayoría occidentales (de los EE.UU.) se apoderaron de la monarquía hawaiana con la ayuda de las tropas de los Estados Unidos. El «nuevo gobierno» se negó a devolver el poder a la Reina hawaiana cuando el presidente norteamericano más tarde calificó su acción como una ocupación ilegal y una invasión armada. Las «tierras cedidas» eran las Tierras del Gobierno y de la Corona de Hawai'i. Con la Ley Orgánica de 1900, que convirtió a Hawai'i en un Territorio de los Estados Unidos, estas tierras fueron mantenidas en «administración pública», entre otros cuatro propósitos, para «la mejora de las condiciones de los nativos hawaianos». Veinte por ciento de los réditos de las tierras «cedidas» van para los fondos de la oficina hawaiana paralela a la BIA: Oficina de Asuntos Hawaianos (OHA). OHA, desgraciadamente, tiene las mismas estadísticas desalentadoras de BIA, usando la mayoría de su fondos para propósitos administrativos.

Los kánaka maoli exigen las tierras «cedidas» que se administran fiduciariamente para ellos. Algunos, todas, otros, un quinto, según las interpretaciones de la ley. Si realmente obtuvieran control sobre las tierras «cedidas» y las tierras de las Viviendas Hawaianas, se convertirían en una nación indígena muy rica. El desafío de estas demandas puede ser una razón de la prisa con que el estado parece tratar de solucionar de una vez por todas las cuestiones de los derechos indígenas.

El jefe de estado del «Estado Nacional Independiente y Soberano de Hawai'i» (uno de los grupos más grandes del movimiento por la soberanía), Pu'uhonua Kanahele, fue acusado y arrestado por acusaciones de casi dos años de antigüedad por albergar a un fugitivo federal. La opinión general entre los kánaka maoli es que esta acción fue una advertencia al movimiento por la soberanía de parte de las agencias estatales y federales, y Kanahele recibió el apoyo de un amplio sector de la sociedad.

Continúan las luchas por la tierra y las protestas contra los proyectos de desarrollo, ambiental y culturalmente inadecuados.

mientras que la crisis económica general golpea duramente a los programas nativos hawaianos y a la enseñanza de la lengua. Las iniciativas locales, como el cultivo del *taro*, por ejemplo, tienen que competir con el desarrollo urbano con respecto a recursos limitados tales como el agua. Se han construido túneles hace muchos años que desvían el agua de los valles productores de *taro* del lado de barlovento de las islas a las plantaciones de azúcar y ananás del lado de sotavento. Basados en estas «prácticas establecidas» los contratistas urbanos exigen el agua para canchas de golf y para la evacuación de los retretes, ahora que las plantaciones ya no son rentables. La disputa de Waiahle, que ha estado en marcha durante meses ilustra este punto.

AUSTRALIA

Justicia social indígena

El año pasado ha sido pautado por el establecimiento de una agenda en la Australia indígena. Comenzó con la publicación de tres importantes informes, en marzo y abril de 1995, por los organismos controlados por los indígenas, los cuales gozan de un estatus oficial como asesores del gobierno nacional¹. Esos informes fueron la respuesta al compromiso del primer ministro relativo a un «paquete de justicia social indígena», el cual complementaría el reconocimiento de derechos y las políticas de adquisición de tierras que siguieron a la fundamental decisión Mabo, de la suprema corte de justicia en 1992.

El Consejo por la Reconciliación Aborígen, constituido por personas indígenas y no-indígenas de renombre, fue establecido por un ex primer ministro en 1991 con apoyo multipartidario, para alentar a la comprensión social y el acuerdo político entre las razas. La publicación de los tres informes sobre justicia social, Avanzando, puso un fuerte énfasis en los procesos de consulta nacional, la reforma constitucional, y «el valor de uno o más documentos para formalizar la posición» de los *aborígenes* y los *isleños del Estrecho Torres* en el marco político y legal de Australia, así como también brindó recomendaciones sobre muchos otros temas.²

El próximo informe provino de un comité indígena de alto nivel establecido por la Comisión de Aborígenes e Isleños del Estrecho Torres (ATSIC), una estructura mixta australiana compuesta por la administración federal indígena y representantes indígenas electos regionalmente. Reconocimiento, Derechos y Reforma presentó

recomendaciones detalladas para un inmediato trabajo en temas de trascendencia política tales como la reforma constitucional, y obtuvo rápidamente \$3 millones (dólares australianos) del presupuesto nacional para comenzar con ese trabajo.

El informe final, Justicia Social Indígena, del «ombudsman» nacional de los pueblos indígenas, Mick Dodson, planteó menos recomendaciones pero apuntó directamente hacia las cuestiones fundamentales de la reforma constitucional, «acuerdos regionales», financiación de comunidades indígenas, y la cooperación internacional indígena, dedicando capítulos específicos a cada una. La agenda presentada por los tres informes es tan nueva para la mayoría de los australianos que el intento del tercer informe de ofrecer una guía dentro del nuevo mundo de la política indígena ha probado ser muy útil, a juzgar por su extenso uso en los programas de conferencias y en las listas de referencia.

Estos informes comenzaron con un trabajo de discusión preparado conjuntamente por los tres organismos³, para uso en dos vueltas nacionales de consulta con comunidades indígenas. Luego se celebraron una serie de seminarios conjuntos de los tres organismos, con la participación de expertos invitados para considerar los informes de las reuniones comunitarias y para estudiar los trabajos en más profundidad. Probablemente no haya habido nunca un caso tan auténtico y meticuloso de elaboración política por parte de los pueblos indígenas en ninguna parte, ni tampoco uno que condujera tan directamente la opinión comunitaria a los ámbitos resolutivos gubernamentales.

La Nueva Agenda

Los informes sobre justicia social tenían seis puntos; la reforma constitucional, para permitir a los aborígenes e isleños llegar a un pacto político o «tratado» u otro resultado constitucional con los australianos no-indígenas, fue el tema básico - un proceso político negociado para superar las quejas indígenas y permitir a los pueblos vivir juntos y en paz. Existe un considerable apoyo para la «reconciliación» con los pueblos indígenas, como un deber nacional (aunque con poca comprensión de lo que implica) en el marco de la Australia no-indígena de hoy, plena de un emergente orgullo nacional y reivindicaciones en el campo de las artes, los asuntos internacionales, el cambio económico y la política interna.

Los derechos territoriales siguen en disputa con la Ley nacional del Título Nativo de 1993, que defraudó a los indígenas y permitió

una continuación de la reacción blanca. Los derechos marinos no han progresado aunque la Política Costera nacional de 1995 promete la participación indígena en la elaboración política. Se ha comenzado a trabajar en una estrategia indígena de pesca. Los derechos territoriales y marinos son temas fundamentales para todos los pueblos indígenas, y los intereses sociales y económicos más inmediatos de los pueblos indígenas de casi todo el continente, por lo que el progreso en estos temas pondrá a prueba a toda política gubernamental.

El reconocimiento y financiación de la autogestión comunitaria es un tema muy importante, no sólo para la autonomía cultural, sino también porque los gobiernos estatales y territoriales no brindan los servicios básicos a un nivel del «primer mundo», constituyendo ésto la mayor queja en las audiencias comunitarias. Como la mayoría de los gobiernos no están dispuestos a aumentar las expensas más allá de cantidades simbólicas o a reconocer que el control no indígena constituye una gran parte del problema, no es posible ser optimista en lo relativo a un cambio rápido. Unas pocas voces se alzan destacando, en vano, a Groenlandia y el norte de Noruega como modelos para las políticas de mejoramiento comunitario.

Los acuerdos regionales como los de Alaska, Groenlandia y el norte de Canadá, donde los inuit y los indios están tomando control de las tierras y las aguas, los servicios públicos, el desarrollo económico, la protección del medio ambiente y su futuro colectivo, han atraído mucho interés.⁴ En North Queensland, están surgiendo dos, uno en Cape York, donde los aborígenes han calmado la cólera de los ganaderos blancos y ganaron el apoyo de los ambientalistas, y otro en el sur del Golfo de Carpentaria, donde 4.000 *waanyi* están negociando con la compañía minera más grande del mundo, CRARTZ, para que el proyecto de zinc «Century» beneficie a los *waanyi* a cambio de su apoyo. Los acuerdos regionales de América del Norte confieren autoridad a los pueblos indígenas dentro de los estados nacionales, yaciendo su fuerza y valor en su estatus político y las estructuras políticas negociadas. Como las versiones australianas carecen todavía de tales características fundamentales, muchos de los aborígenes temen que sean nuevos engaños de los blancos.

Finalmente, todos los partidos políticos reconocen al Estrecho Torres como merecedor de acuerdos regionales especiales. Sin embargo, cuando se planteó la cuestión de la autogestión durante la visita del primer ministro en septiembre de 1995, pareció que hacía depender cualquier avance en este sentido del desarrollo econó-

mico. Sin claros derechos al mar y a las islas, y sin control de la elaboración de la política regional, los isleños carecen de toda base para iniciar u obtener beneficios de un proceso de desarrollo, o proteger la productividad marina.

Esta nueva agenda desafía a Australia, y a algunos indígenas, porque cambia el enfoque del pasado en beneficios materiales inmediatos y servicios públicos, a los procesos de negociación, los derechos y los poderes y estructuras indígenas autogestionarias. Al carecer de necesidades básicas tales como agua limpia y escuelas, es fácil para los gobiernos distraer el interés con pequeñas dádivas a los indígenas empobrecidos y desempleados que están desesperados. Tal arcaica y colonial manipulación contribuye a envenenar las relaciones de los indígenas con los blancos. Muchos aborígenes e isleños confían en los medios de difusión mundiales, que llegarán a los Juegos Olímpicos de Sydney en el año 2000, para hacer llegar a los hogares australianos que su tratamiento de los pueblos indígenas es inaceptable en una rica democracia liberal. Creen entonces que hablando directamente al mundo, la opinión pública mundial apremiará a los australianos y a sus gobiernos a reconocer la necesidad de un cambio.

Pasado y presente

Estas cuestiones centrales de «justicia social» no son siempre aquellas que reciben la mayor atención pública. Le cabe este honor al fracaso del puente de la isla de Hindmarsh. La protección de los sitios sagrados de los pueblos indígenas es un continuo problema práctico (y algo que la práctica australiana tiene mucho para enseñar a otros países). Usando sus poderes para proteger el patrimonio aborígen, el gobierno federal detuvo la construcción de un puente y un puerto deportivo cerca de Adelaida, cuando se enfrentó a la oposición de mujeres aborígenes locales. El área tiene una especial importancia para ellas y para su fertilidad, explicaron las mujeres con disgusto. Esto se transformó en un pleito entre el estado y los gobiernos federales, entre las mujeres aborígenes cuando algunas negaron tales creencias, entre otros que opinaban que las creencias eran inventadas para detener el proyecto, y entre los antropólogos no-indígenas y los historiadores locales quienes se disputaban la mutua credibilidad como expertos. La justicia y una investigación oficial han ahora rechazado las creencias aborígenes, aunque está en marcha una nueva investigación federal. La confusión, los alegatos a favor y en contra, y la frívola expresión de algunas de las

personas involucradas, han alimentado el escepticismo público y oficial sobre la cultura indígena y sus creencias. Sería difícil imaginar un mejor tema para el análisis académico poscolonial contemporáneo, por lo que se espera que los inevitables libros que serán escritos puedan llegar a crear algún día comprensión y respeto por los dilemas culturales de la sociedad aborigen con respecto a las creencias secretas. No obstante, el episodio ha sido, por ahora, un desastre para los aborígenes.

Un nuevo libro ha realizado una importante contribución a la comprensión australiana y mundial de las relaciones coloniales. En *Destino de un pueblo libre*, el historiador Henry Reynolds ha reabierto la notoria cuestión de la exterminación de los aborígenes de Tasmania.⁵ Su convincente recuento de la desidia de varios funcionarios blancos y de la organización y la decidida resistencia de los aborígenes, constituyen un estudio clásico y recomendable. Muestra que los aborígenes no desaparecieron totalmente, aunque fueron defraudados en lo que respecta a su futuro, tierras y la mayoría de sus vidas por la falta de cumplimiento de las autoridades británicas de un tratado negociado con ellos.

Con sus libros y con la asistencia a los demandantes indígenas, el Profesor Reynolds ha contribuido en gran medida al aumento de la consciencia de que Australia no escapó a las intenciones y políticas imperialistas que llevaron a Nueva Zelanda, Canadá y los EEUU a hacer tratados con pueblos locales como base para la coexistencia. No obstante cuán defectuosos, inequitativos, o incumplidos fueran esos tempranos acuerdos políticos, han provisto un modelo o símbolo de acuerdo político en los años recientes. Ahora también Australia está tratando de enfrentar su pasado - generalmente en forma apasionada en los salones de clases y en las legislaturas, donde se pregunta si el continente fue «colonizado» o «invadido». Muchos australianos conscientes temen una división racial al estilo de los EEUU, que implique violencia y una disolución civil a menos que las quejas y necesidades indígenas sean rápidamente encaradas por los gobiernos.

Territorio del Norte

El tema inmediato de mayor importancia puede ser el futuro del Territorio del Norte. La población blanca, mucha de la cual se radica allí solamente durante unos pocos años, controla el gobierno a través de un estrecho círculo empresarial, principalmente con sede en Darwin, el cual ha ejercido el poder durante más de 20 años. La mitad del territorio es de propiedad de los aborígenes según una ley nacional de

derechos territoriales, la cual estableció el procedimiento reivindicativo. El gobierno del Territorio del Norte adopta una fuerte oposición ideológica a los derechos indígenas. Los aborígenes que fueron masacrados o sufrieron abusos y viven para recordarlo, generalmente piensan que no tienen ninguna esperanza de cambio, una desesperación y una falta de experiencia con los niveles legales y políticos que los simpatizantes del gobierno del Territorio del Norte interpretan como un apoyo aborígen a su control político y a sus programas.⁶

Antes de cada período electoral de tres años, ocurre un extraño fenómeno natural en Darwin. Repentinamente los gorjeos de políticos y nuevos documentos promueven los beneficios y satisfacciones que implicaría si el Territorio del Norte se convirtiera en un pleno estado australiano. Se lamentan de la falta de «igualdad» del Territorio del Norte; es decir que carece de la desigualdad implícita en las constituciones de los otros estados que en la década de 1890 escribieron la Constitución Australiana, especialmente el poder de control sobre las tierras aborígenes. Con la eterna esperanza de que sea electo en Camberra un gobierno compatible, los políticos de Darwin se preparan a apresurarse para obtener el estatus de estado y de una ley nacional de derechos territoriales antes de que nuevos ministros ansiosos de complacer, tengan tiempo de darse cuenta de las consecuencias. En 1979, en Canadá, Yukón tendió una emboscada similar al nuevo gobierno de Clark, un acontecimiento que le permitió derrotar a ese gobierno poco después.

En el caso del Territorio del Norte, el apoderamiento de tierras aborígenes sin el consentimiento de aquellos sería un escándalo. Ya existe un movimiento con apoyo oficial en la década de 1990 en Australia para negociar un cambio constitucional con los aborígenes. Por lo tanto, una constitución estatal del Territorio del Norte, escrita por los blancos según las líneas de 1890, a pesar de unas pocas concesiones agregadas de vez en cuando para apaciguar las conciencias blancas del sur, es inaceptable. Un nuevo gobierno australiano que no pase esta prueba se arriesga a ser acusado incluso de racismo y de un retorno al pasado, algo que no se puede permitir a nivel interno ni entre sus poderosos vecinos y socios comerciales asiáticos.

Comenzando otra vez

En febrero de 1996 se celebró la primera conferencia indígena constitucional verdadera. ATSIC invitó a 80 personas indígenas políticamente activas a Adelaida, y trajo a cuatro expertos en

derecho constitucional y política. En sus comentarios televisivos de apertura, el presidente de ATSIC, Lois O'Donoghue, dijo que la política indígena del gobierno australiano era de «arrojar dinero a los problemas que no creía que pudiera resolver». Este puede ser el análisis más conciso y correcto que se haya hecho. Es también la razón por la que los pueblos indígenas y muchos funcionarios no-indígenas, grupos de interés e investigadores están tratando de cambiar los marcos de la política indígena. La conferencia subrayó que el cambio «constitucional» se refiere no sólo a la Constitución nacional, la cual es difícil de enmendar, sino a la red nacional de acuerdos de gobierno y leyes básicas. Es simple, los viejos marcos y las presunciones políticas han probado ser un fracaso.

El nuevo gobierno de Camberra a asumir funciones en marzo de 1996 tendrá bastante trabajo en la elaboración política, porque se ha comprometido con una visión de que los programas sociales y económicos son «la respuesta». Ha rechazado el reconocimiento de derechos y el cambio estructural como «políticamente correctos», asociándolos con sospechosas elites cercanas al gobierno laborista. Aquí hay dos problemas. Uno es que los programas sociales ya han fracasado en lograr cambios fundamentales a la desesperanzada situación de los indígenas. Segundo, los dos partidos de la coalición gubernamental, alejados durante 13 años del poder, están realizando el error clásico en tales casos de considerar el panorama social y organizativo y la sensibilidad de los tiempos modernos como creaciones de sus enemigos políticos.

Por lo tanto, 1996 será un difícil período de transición para la política indígena. Aunque el nuevo gobierno incluye miembros que simpatizan con las cuestiones indígenas y son progresistas al respecto, éstos no constituyen la facción dominante. El consenso contemporáneo entre los países desarrollados de Europa, América del Norte y Nueva Zelanda es que la autonomía cultural, la autogestión y el reconocimiento institucionalizado (incluso constitucionalizado) de los pueblos indígenas es la base para una política que todavía no ha penetrado en Australia o en la mayoría de sus círculos políticos. Incluso aquellos que dicen por lo bajo que «por supuesto» se debe hacer algo, sólo piensan en términos de algunas hermosas palabras en el preámbulo de la Constitución que digan que los aborígenes eran los primeros ocupantes. Eso es lo que la palabra «aborigen» significa, después de todo, por lo que no constituye un progreso. (La palabra «australianos» en los primeros tiempos de la colonización blanca, era usada sólo en relación con las personas indígenas).

El nuevo gobierno se tendrá que dar cuenta que los indígenas no son solamente una simple colección de voluntades individuales y motivos económicos. Son también comunidades culturales diferenciadas, cuya conducta, esperanzas y acciones tienen pautas distintas de las de la mayoría europeo-occidental australiana. Son ahora, tal como lo eran antes, comunidades políticamente activas que buscan el bienestar grupal y afirman su identidad común. Estas nociones globales son todavía consideradas «radicales» en el norte, centro y oeste de Australia.

Australia, más que otros países, seguirá necesitando información, escrutinio, y apoyo del exterior para poder realizar progresos en su política indígena. El «ombudsman» Mick Dodson en el tercero de los informes referentes a la justicia social plantea simplemente la cuestión:

Los pueblos indígenas de todo el mundo sufren padecimientos actualmente y todos han experimentado el despojo de sus territorios, el denigramiento de su cultura, la marginación, la asimilación y las enfermedades sociales. Hoy, en muchos países, las vidas de los indígenas están amenazadas por parte de gobiernos y colonizadores brutales. Si hiciéramos sólo hincapié en los muchos problemas existentes, nos veríamos inmovilizados por la desesperación. Lo que en cambio debemos hacer es profundizar las medidas positivas que han comenzado a surgir en algunos países. Nadie sugeriría que algún país ha resuelto los problemas indígenas, pero al menos están apareciendo ejemplos de políticas generales, iniciativas específicas, o resultados imprevistos que devuelven la autoestima y el poder resolutivo a pueblos previamente marginados.⁷

Los líderes indígenas de Australia destacan frecuentemente que los contactos con el extranjero han colaborado a empujar a su país y sus gobierno al mundo contemporáneo de las normas de los derechos humanos. Están recurriendo cada vez más a los precedentes y experiencias extranjeras, tanto buenas como malas, para elaborar soluciones mejores. El progreso no es fácil. Algunos funcionarios de la administración nacional están incluso tratando de empaquetar nuevamente la tradicional negligencia y el asimilacionismo australianos como la única política responsable e «inclusiva», para excluir a sus hermanos y hermanas indígenas, describiendo maliciosamente las ideas extranjeras de autonomía indígena y autogestión con cruel rechazo.

En los cuatro años posteriores a Mabo, un puñado de líderes políticos y funcionarios de toda Australia, junto con un creciente

grupo de líderes indígenas, han librado una valiente batalla para reformar las viejas políticas racistas de Australia. Serán necesarios muchos más esfuerzos, educación pública y voluntad política de los blancos para obtener éxito.

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- 1) Going Forward: Social Justice for the First Australians, A Submission to the Commonwealth Government from the Council for Aboriginal Reconciliation, Canberra, 1995; Recognition, Rights and Reform: A Report to Government on Native Title Social Justice Measures, Native Title Social Justice Committee, Aboriginal and Torres Strait Islander Commission, Canberra, 1995; Indigenous Social Justice, Vol. 1, Strategies and Recommendations, Mick Dodson, Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, Sydney, 1995. Ver también Jull P. 1996, «An Aboriginal Policy for the Millennium: The Three Social Justice Reports», Australian Indigenous Law Reporter, Vol. 1 No.1, ps.1-13.
- 2) Recommendation 12, Going Forward.
- 3) Towards Social Justice? An Issues Paper, Commencing the Process of Consultation by ATSIC [Aboriginal and Torres Strait Islander Commission], Council for Aboriginal Reconciliation, and Aboriginal and Torres Strait Islander Social Justice Commissioner, Canberra, 1994.
- 4) Este término australiano se refiere a los acuerdos regionales de reivindicaciones territoriales de Alaska y Canadá y al gobierno autónomo de Groenlandia. Ver Richardson BJ, Craig D & Broer B, 1995, Regional agreements for indigenous lands and cultures in Canada, A Discussion Paper, Australian National University North Australia Research Unit, Darwin; Harris A (ed), 1995, A good ideas waiting to happen: Regional Agreements in Australia, Proceedings from the Cairns Workshop July 1994, Cape York Land Council, Cairns, Qld.; ATSIC, 1995, ATSIC Regional Agreements Seminar, Cairns, 29-31 May 1995, Proceedings, Aboriginal and Torres Strait Islander Commission (ATSIC), Commonwealth of Australia, Canberra.
- 5) Publicado en 1995 por Penguin, Melbourne.
- 6) Ver también la discusión de Harald Eidheim de las «empresas» políticas noruegas en Aspects of the Lappish Minority Situation, Universitetsforlaget, Oslo, 1971.
- 7) Pág. 42, Indigenous Social Justice, Volume 1.

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1. Kazakh
2. Ulghur
3. Kyrgyz
4. Tibetanos
5. Ainu

ASIA ORIENTAL

CHINA

Con la excepción de Tibet y Xinjiang, las cuestiones relativas a los pueblos indígenas no fueron muy prominentes en los titulares de la prensa chinos o extranjeros en 1995. Sin embargo, a nivel nacional, hubieron algunas cuestiones que podrían tener como resultado serias repercusiones para los pueblos indígenas en el futuro. Ésto se debe a la relación cada vez más tensa entre China y los Estados Unidos.

Además de las disputas «normales» sobre derechos humanos y comercio, hubieron dos cuestiones que enfurecieron a la dirección china. Una fue la concesión de visa al presidente taiwanés, Lee Teng-hui, para reunirse con su Alma Mater, en la Universidad de Cornell. La otra cuestión fue que el presidente Clinton sostuvo una «charla» extraoficial con el Dalai Lama durante su visita a los EE.UU. en septiembre.

Estos incidentes, junto con otras cuestiones, como la creciente tensión regional en relación con las demandas chinas en la Mar del Sur de la China y la atmósfera nerviosa antes de que los chinos se hagan cargo de Hong Kong, ha contribuido a crear un sentimiento creciente de malestar no sólo dentro de la dirección china, sino también entre el pueblo en general.

A pesar de la política oficial china de apertura al mundo, existe un renovado temor -con raíces que se remontan al siglo pasado- de que los esfuerzos para construir una nación-estado unificada se vean amenazados por el incremento de la presencia extranjera en China. Ésto se expresa en el aumento de los sentimientos nacionalistas, tanto oficiales como populares, y tal nacionalismo no conducirá a la democratización ni a una mayor autonomía para los pueblos indígenas. Al contrario, es probable que tales sentimientos den por resultado políticas más restrictivas, si se desarrollan de acuerdo a las líneas actuales.

El caso de Tibet se trata separadamente. Tanto en Tibet como en Xinjiang, se realizaron celebraciones oficiales en relación con el 35

aniversario del establecimiento de la Región Autónoma Tibetana y el 40 aniversario del establecimiento de la Región Autónoma de Xinjiang Uygur respectivamente. Tanto en Lhasa como en Ürümqi, el énfasis se puso en «patriotismo, unidad y progreso.»

En Ürümqi, la capital de Xinjiang, las celebraciones oficiales del 1 de octubre fueron encabezadas por Jiang Chunyun, un recientemente nombrado Vice-Premier, por el uygur Abulat Abdurixit, gobernador de Xinjiang, y por el chino Wang Lequan, secretario del Partido de Xinjiang. Los discursos destacaron que China, a diferencia de muchos otros países, había evitado principalmente los conflictos étnicos, pero que la lucha contra las fuerzas separatistas continuaría probablemente durante un período largo.

Durante el período previo al aniversario, los funcionarios chinos de Xinjiang habían advertido que «fuerzas hostiles en el país y en el extranjero» y «ex ciudadanos chinos» estaban causando problemas en la región. Esto se refería principalmente a círculos dentro de las comunidades *kazakh*, *kirgiz* y *ulghur* (*uygur*) en los anteriores estados soviéticos del Asia Central, Kazakhstán y Kirguizstán.

El establecimiento de nuevas repúblicas independientes en Asia Central llevó a una situación nueva a los políticos chinos con respecto a Xinjiang, y la relación con China será siempre una importante cuestión política para los nuevos estados. Las estrategias preferidas de ambos partidos (el chino y los otros) parece ser un intento de lograr un equilibrio entre control y apertura. En los nuevos estados existe una simpatía considerable por la situación de sus primos étnicos del otro lado de la frontera, en Xinjiang, y existe también un temor notable de que China llegue a dominar al Asia Central en el futuro. Hoy, Xinjiang limita con nada menos que ocho países.

En Kazakhstán hay alrededor de 50.000 kazakh que huyeron de las políticas de colectivización en Xinjiang, a principios de la década de 1960. El 12 de septiembre, el presidente kazakh, Nazarbayev, se reunió con el presidente Jiang Zemin en Pequín, donde, entre otras cosas, discutieron la situación de los kazakh que huyeron y la situación de más de un millón de kazakh que viven en Xinjiang (y algunos tan al este como en Qinghai). Según Itar-Tass, los dos líderes «se expresaron contra el fomento del separatismo nacional en sus territorios y tratarán de transformar la frontera entre ellos en una frontera de amistad y confianza mutua.»

Otro acuerdo logrado durante la reunión fue construir un oleoducto de Kazakhstán Occidental a la costa oriental de China. Este

oleoducto monumental, así como otro planeado oleoducto similar, más largo, de Turkmenistán, a través de Uzbekistán y Kazakhstán hacia el oriente, son proyectos conjuntos japoneses con participación china. Todos ellos tendrán que pasar a través de Xinjiang, donde la intensa prospección y explotación petrolera china de la cuenca de Tarim ya han sido enfrentadas con la resistencia de las comunidades uygur.

La otra cuestión fronteriza se refiere a los uygur. Unos 20.000 uygur huyeron de Xinjiang, por la frontera soviética junto con los kazakh en 1959, 1962 y 1974. Aunque los uygur son la nacionalidad dominante en Xinjiang (aproximadamente ocho millones), han sido siempre un grupo pequeño en la ex Unión Soviética, (aproximadamente 200.000 en el censo de 1989). Sin embargo, su posición en las ex regiones soviéticas ha sido bastante privilegiada a causa de sus excelentes habilidades comerciales.

Los uygur de Kirguizistán, quienes suman aproximadamente 40.000 individuos, se organizaron en 1993 en una asociación llamada Ittipak, que significa «Unión.» Han trabajado con buen éxito para mejorar su estado en Kirguizistán, pero sus esfuerzos por aumentar las relaciones comerciales con Xinjiang y el trabajo hacia relaciones más estrechas con los uygur de Xinjiang hicieron que la oficina del fiscal de Kirguizistán emitiera una advertencia en enero de 1995 de que su actividad podía «despertar dudas acerca de las relaciones amistosas entre los kirgiz y el pueblo chino.»

Muchos *mongoles* fueron arrestados en diciembre de 1995 en una serie de manifestaciones en Hohhot, la capital de La Región Autónoma de Mongolia Interior. Las primeras manifestaciones fueron realizadas frente a una librería popular mongólica, cuyo dueño había sido arrestado junto con otros miembros de la Alianza Democrática de Mongolia del Sur, cuyo objetivo es establecer una nación mongólica independiente en Mongolia Interior. El 30 de diciembre, fueron detenidas 27 personas en una manifestación que portaba retratos de Genghis Khan, el gran constructor del Imperio Mongol.

TIBET

Según el derecho internacional la nación tibetana no es un pueblo indígena y el Gobierno Tibetano en el Exilio ha preferido no usar esta etiqueta. Tibet era un estado independiente en la época de la invasión china en 1949/50. Legalmente, el país sigue siendo inde-

pendiente hoy porque China usó la fuerza cuando ocupó Tibet, lo cual constituye una violación del derecho internacional. Los tibetanos están por lo tanto sólo incluidos en esta publicación porque encajan en una definición más amplia de pueblos indígenas, por estar sometidos a la colonización y por disponer del derecho a la autodeterminación.

La autoridad máxima del Gobierno Tibetano en el Exilio, Su Santidad el Dalai Lama, ha enfatizado consecuentemente la necesidad de hallar una solución negociada a los problemas de Tibet y ha evitado exigir la plena independencia del Tibet. En cambio, para comenzar un diálogo con el gobierno chino, ha sugerido una solución según la cual un futuro Tibet ejercería una autonomía interior dentro del estado chino. China ha rechazado estas propuestas y alega que el Dalai Lama trabaja por la plena independencia.

China secuestra al Panchen Lama de seis años de edad

1995 trajo un severo revés a cualquier esfuerzo para comenzar negociaciones entre el gobierno chino y el Dalai Lama. Cuando el Dalai Lama reconoció el 14 de mayo a un niño tibetano de seis años, Gedhun Choekyi Nyima, como la undécima encarnación del Panchen Lama, la segunda autoridad tibetana budista, el gobierno chino reaccionó muy severamente. Los lamas de alta jerarquía disponen tradicionalmente de una autoridad política importante y el ex (décimo) Panchen Lama, que gozaba de altos cargos en la estructura política china, había brindado una fuente importante de legitimidad a la dominación china de Tibet. China ha intensificado ahora su campaña contra lo que califican «la pandilla Dalai,» forzando a personas a asistir a reuniones en las cuales se les obligó a denunciar al Dalai Lama, arrestando a más de 50 tibetanos que se había atrevido a expresarse abiertamente contra la campaña china y secuestrando al joven Panchen Lama, así como también a sus padres. Según informes, el niño y su familia han sido trasladados a Pequín y han sido puestos bajo arresto domiciliario.

El 8 de diciembre de 1995, otro niño tibetano de seis años fue instaurado por las autoridades chinas como su candidato a Panchen Lama. Al escoger ir contra la autoridad religiosa del Dalai Lama y al imponer al pueblo tibetano su voluntad en esta cuestión religiosa, el ateo gobierno chino ha creado una situación explosiva en Tibet, y varias personas han sido ultrajadas por su actitudes. Es difícil lograr una reconciliación a corto plazo entre el gobierno chino y el Dalai Lama.

Radicalización de la política china

En 1995 se produjo una radicalización de la política china hacia el Tibet. La persecución política y la vigilancia alcanzaron una nueva intensidad en la medida en que la disidencia aumentó. A fines de año, las organizaciones que luchan por los derechos humanos disponían de informaciones personales de más de 700 prisioneros políticos. Éste es el número más alto de tibetanos encarcelados por razones políticas desde el fin de la Revolución Cultural en la década de 1970. Sólo en 1995, se sabe que se han realizado 218 arrestos políticos, según el Gobierno Tibetano en el Exilio.

La tortura y los malos tratos continúan usándose durante los interrogatorios y detenciones. Cuatro jóvenes prisioneros políticos murieron en 1995 como resultado de torturas y maltratos mientras que estaban bajo custodia policial. Varios otros han muerto poco después de ser puestos en libertad.

En una importante campaña represiva contra el movimiento independentista, varios monasterios budistas fueron allanados por soldados y más de 88 monjes y monjas fueron expulsados. Durante toda la década de 1980 y el principio de la de 1990, los tibetanos han realizado muchos esfuerzos para reconstruir algunos de los 6.259 monasterios que fueron destruidos, en parte o completamente, de 1949 a 1979. Ahora, las autoridades chinas han decidido detener toda reconstrucción y han impuesto un límite a la cantidad de monjes y monjas. A comienzos de 1996, un convento y un monasterio fueron clausurados en el distrito de Ngamring debido a razones políticas.

Nuevas tendencias hacia una resistencia violenta

La oposición no-violenta en forma de demostraciones pacíficas y campañas de escritura de consignas por la independencia tibetana ha persistido a pesar de la intensificada vigilancia y los encarcelamientos políticos como resultado de la introducción, en septiembre de 1994, de nuevas medidas de seguridad, identificando a personas comprometidas en actividades «separatistas» como el primer objetivo de la vigilancia y la represión.

1995 fue testigo de los primeros bombardeos conocidos por motivos políticos en Tibet desde 1985. Entre junio y agosto, se informa que han ocurrido cinco intentos de sabotaje en la capital, Lhasa. Estaban todos dirigidos no a personas sino a instalaciones chinas en Lhasa durante los preparativos de las celebraciones del 1

septiembre del año pasado, en ocasión del 30 aniversario de la fundación de la Región Autónoma del Tibet. Dos de las bombas detonaron en un monumento en Lhasa occidental dedicado a los obreros que construyeron dos caminos para unir Tibet a China. Se dice que otra bomba mató a un obrero chino cuando detonó en un depósito de combustible en la misma parte de la ciudad. Según el servicio de información independiente británico, Tibet Information Network, no hay ninguna evidencia hasta ahora acerca de quien llevó a cabo los supuestos ataques, y ninguno de los incidentes han sido confirmados, ni han sido informados por la medios de comunicación oficiales.

Se informó que el 18 de enero explotó una bomba e hirió seriamente a una persona en la casa de Sengchen Lobsang Gyaltzen, un lama tibetano pro-chino quien en julio fue nombrado como abad del monasterio de Panchen Lama, Tashilhunpo.

Simpatía pero ninguna acción

La comunidad internacional parece cada vez más interesada por la economía expansiva de China y se muestra vacilante cuando se trata de criticar a China por su represión en Tibet. La mayoría de los gobiernos, habiendo desvinculado efectivamente el comercio y los derechos, son renuentes a plantear el caso de Tibet en los foros multilaterales pues temen repercusiones negativas para desarrollo de sus relaciones comerciales con China. Consciente de su propio crecimiento económico y su mayor poder político, China es cada vez más y más agresiva y exitosa en sus esfuerzos para censurar la crítica e impedir el daño a su relaciones económicas y políticas debido a su política en Tibet, sobre todo en los foros internacionales.

Se anularon así los pasajes sobre el Dalai Lama en una publicación emitida por la ONU en ocasión de su 50 aniversario. En la Cuarta Conferencia Mundial de Mujeres, celebrada por la ONU en Pequín en septiembre de 1995, representantes de mujeres tibetanas que viven en el exilio que lograron participar, fueron seguidas, filmadas y hostigadas por el personal de seguridad chino. Ninguna de las ocho organizaciones tibetanas registradas inicialmente para su acreditación fueron aprobadas al final a pesar de cumplir los requisitos formales.

Las organizaciones no-gubernamentales (ONGs) que hacen trabajo de «lobby» en la ONU se enfrentan ahora a la intimidación

frente a la cual ya han sucumbido los gobiernos. En la reunión de febrero de 1996 del Comité de ONGs de la ONU, China encabezó una coalición de naciones que cuestionaron el derecho de las ONGs con estatus consultivo a «violar la soberanía» de los estados miembro, cuestionando su situación relativa a los derechos humanos. Como resultado, se podría ahora revisar el estatus de varias ONGs. En particular, han sido específicamente identificadas las organizaciones que han apoyado la lucha tibetana, como «Human Rights Advocates» y «Pax Christi».

Los tibetanos consideran a la Comisión anual sobre Derechos Humanos, a celebrarse en Ginebra, como la mejor esperanza de apoyo multilateral a su causa. En 1995 la Unión Europea, los Estados Unidos y otros miembros de la Comisión lograron exitosamente una resolución que condenaba las violaciones de los derechos humanos en China y Tibet. Ese esfuerzo cooperativo dio por resultado la casi aprobación de la resolución - la cual se perdió por un solo voto.

Los simpatizantes del Tibet y activistas democráticos chinos tenían la esperanza que 1996 pudiera ser el año en que sus esfuerzos tuvieran como resultado finalmente la aprobación de una resolución sobre China y Tibet en la Comisión de Derechos Humanos. Sin embargo, hacia febrero de 1996 parecía que aunque los Estados Unidos, junto con la Unión Europea, posiblemente funcionarían como co-patrocinadores de la resolución sobre China, las tensiones resultantes de la guerra comercial EEUU/China y el estatus de Taiwán podrían desviar el activo trabajo de «lobby» necesario para asegurar el éxito de la resolución.

Mientras que la ONU y varios gobiernos parecen dejar de presionar a China sobre Tibet, varios parlamentos han adoptado resoluciones que encaran la cuestión en un lenguaje todavía más claro. El Parlamento Europeo, el 13 julio, reafirmó «la naturaleza ilegal de la invasión y ocupación de Tibet por la República Popular China; considerando que, antes de la invasión de China en 1950, Tibet era reconocido de facto por muchos países y considerando que es un territorio ocupado según los principios establecidos por el derecho internacional y las resoluciones de las Naciones Unidas.»

JAPÓN

Los *ainu* han sufrido el pillaje, la violencia, y la opresión del gobierno japonés, y ahora luchan por la rehabilitación de los derechos del pueblo ainu basados en el Convenio No. 169 de la OIT de 1989, para emanciparse de la política de asimilación del gobierno japonés.

Los ainu se encuentran todavía sometidos a la «Ley de Protección de los Aborígenes de Hokkaido» (*Kyu-Dojin Hogo hou*) promulgada en 1899, que discrimina a los ainu y viola sus derechos humanos. En 1984 fundaron un movimiento para abolir esta Ley y establecer una nueva legislación para los ainu. El Sr. Yokomichi Takahiro, el ex gobernador de Hokkaido, estuvo de acuerdo con la propuesta ainu de discutir sobre la nueva legislación con los 10 miembros del concejo establecido en octubre de 1984. Como resultado, el 22 de marzo de 1988, el Sr. Morimoto Masao, el presidente del concejo sometió un informe promoviendo la institución de una legislación nueva en cooperación con el Gobierno japonés para reconocer a los ainu como un grupo étnico indígena con su religión propia, idioma, y cultura. El Sr. Yokomichi presentó este asunto a la Asamblea de Hokkaido en julio de 1988, en la cual la declaración en favor de promulgar una legislación nueva para el pueblo ainu se adoptó y promulgó unánimemente. En diciembre de 1989 el Gobierno japonés estableció un comité investigativo con miembros de 10 secciones gubernamentales, pero este comité no se mostró positivo con respecto a una legislación nueva.

Molesto ante el rechazo del comité, el Partido Socialista de Japón apoyó al Sr. Kayano Sigeru, un representante del pueblo ainu, como candidato a la Cámara de Representantes en julio de 1992. Aunque el Sr. Kayano era el candidato número 11 en la lista del Partido, no resultó electo. Ésto fue una decepción para los ainu pero dos años después, en julio de 1994, la muerte de un miembro de la Cámara de Representantes convirtió al Sr. Kayano en el primer miembro ainu de la Dieta Nacional japonesa, mientras que trabajaba en la redacción del Proyecto de Declaración de los Derechos de los Pueblos Indígenas en la comisión de Derechos Humanos de las Naciones Unidas en Ginebra.

El Sr. Igarashi Kousou, quien llegó a ser Primer Secretario del Gabinete en el mismo año, declaró que promulgaría el mismo una nueva legislación y organizó una conferencia privada de 7 miembros el 30 de marzo de 1995. Se informaron los detalles en el

simposio de «Los Derechos Indígenas de los Ainu» celebrado en la sala Dousin en la ciudad de Sapporo el 5 de febrero de 1996.

El primer ministro, Hashimoto Ryutarou, contestó preguntas de los representantes acerca de la nueva legislación para los ainu en la Dieta Nacional el 5 de enero de 1996 y prometió que respondería al informe de la conferencia. En marzo de 1996 se dio el primer paso hacia el reconocimiento del pueblo ainu como un grupo étnico indígena, pero nadie puede predecir si el gobierno japonés concederá realmente los derechos exigidos por los indígenas ainu.

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1. Karenni

2. Arakan

3. Naga

4. H'Mong

5. Tay-Nung

6. Rungu

7. Dusun

8. Murut

9. Penan

10. Orang Asli

11. Langkat Malay

12. Dayak

13. Tanimbar de Yamdena

14. Amungme, Comoro, Dani

15. Ibaloi

16. Bugkalot

17. Ati

18. Manobo

19. Higaonon

20. Subanen

21. T'boli B'laan

22. Ata-Manobo (Taloingod)

23. Ifugao

ASIA SURORIENTAL

BIRMANIA

La práctica del gobierno del Consejo para la Restauración de la Ley y el Orden del Estado (SLORC) de entregar los recursos naturales dentro de los territorios indígenas a corporaciones multinacionales y otras grandes compañías en la forma de concesiones para la explotación maderera, directamente por sus propias fuerzas, ha causado frecuentemente choques sangrientos entre el ejército del SLORC y los movimientos de pueblos indígenas. Ésta es una experiencia común de aquellos pueblos indígenas que participaron en un acuerdo de cese del fuego con el SLORC durante 1992-1996. Sus sueños de encontrar soluciones políticas a través de negociaciones han sido han sido destruidos. Tan amarga experiencia fuerza a los pueblos indígenas-*kachin, wa, palaung, lahu, pao, karenni*, etc.- que habían hecho una tregua con el SLORC, a formar un frente común contra el mismo.

Karenni

El Partido Nacional Progresista Karenni (KNPP) y el SLORC lograron el 21 de marzo de 1995 un acuerdo de tregua. Pero dentro de un término de 4 meses, el ejército del SLORC lanzó un ataque militar contra el ejército karenni cuya posición había sido expuesta. El acuerdo de cese del fuego acordaba la retirada de tropas de ambas partes y la abstención de desplegar su ejército y de lanzar operaciones militares en las áreas de control conocidas por la otra parte, para posibilitar a las partes entrar en negociaciones políticas.

Mientras que los karenni se preparaban para el diálogo político y retiraban sus tropas del frente, el SLORC movía calladamente su ejército en violación del acuerdo de la tregua y a comienzos de junio de 1995, más de dos mil efectivos de su tropas habían tomado posiciones dentro del área karenni. El KNPP señaló ésto y exigió que el SLORC detuviera inmediatamente su despliegue de tropas. El SLORC primero negó el movimiento de tropas pero más adelante, el 3 de julio de 1995, alegó que la movilización de su ejército en áreas karenni eran medidas contra actos agresivos de países

extranjeros. Tomó sólo 11 días más para delatar el verdadero carácter del SLORC.

Aprovechándose totalmente de la situación de paz, el ejército del SLORC había tomado posiciones estratégicas y el 14 de julio de 1995 lanzó un ataque militar a gran escala contra las posiciones del KNPP, ocupando la mayoría de ellas. Ésto fue seguido por un corte de árboles a gran escala en el área ahora controlada por el SLORC. Basándose en este éxito militar, el SLORC afirmó el 21 de noviembre de 1995, en conversaciones con el KNPP, que el acuerdo del 21 de marzo de 1995 era un acuerdo de rendición del KNPP y que éste debía evacuar sus posiciones. Ésto significa que el KNPP debería rendir la subsistencia del pueblo karenni al SLORC. Como se anticipó, los karenni rechazaron vehementemente esta exigencia infundada y se negaron a condescender con la exigencia de evacuación. El SLORC ha intensificado su ofensiva, mientras que el KNPP, por su parte, la está enfrentando con resistencia guerrillera.

Con estos hechos, las violaciones de derechos humanos en el área karenni aumentan diariamente. Cada mes, cientos de lugareños son reclutados por el SLORC como portadores y enviados al frente para transportar municiones y suministros de alimentos. A menudo, son usados incluso como escudos humanos para el avance de las tropas. Se ha relocalizado a cientos de aldeas. Recientemente, en la primera semana de mayo de este año, 14 aldeas entre los ríos Pon y Salween fueron relocalizadas en Ywathit, en el oeste. Algunas familias escaparon a la frontera tailandesa. El 31 de mayo de 1996 lugareños de otras 124 aldeas de la misma área recibieron la orden de abandonar el lugar dentro del mes de junio de 1996, con la advertencia de que cualquiera que fuera hallado en su pueblo después del mes de junio sería considerado un enemigo y se le dispararía. Otras aldeas cercanas fueron saqueadas por las tropas. Algunos de los regimientos involucrados en esas atrocidades son el 102, 530 y 531.

Arakan

La región costera de Arakan, la patria de los *rakhaing*, es el estado más occidental de Birmania. Antes una tierra muy floreciente y un área central de la cuenca arrocerá mundial, su población vive hoy en la pobreza más abyecta. Miles de jóvenes abandonan el lugar cada mes en búsqueda de sustento en países extranjeros. Al no haber tenido acceso a capacitación o instrucción profesional, la mayoría de ellos acaba en lejanas áreas mineras donde están enteramente a la «merced» de matones pagados por sus patrones.

En cuanto los británicos abandonaron Birmania, los birmanos de Rangoon reasumieron el saqueo de la época feudal y la destrucción de la región. Todo el comercio de ultramar del puerto de Arakan se pasó a Rangoon y se privó a Arakan de la salida marítima para la exportación de su arroz y de sus productos importantes. El SLORC agravó las dificultades instigando disturbios en la región por parte de musulmanes y budistas. Los disturbios comunales patrocinados por el estado, que la población golpeada por la pobreza usó como válvula de escape de su frustración y rabia, significaron una ola adicional de salvajismo. El SLORC lo completó con ataques directos contra los *rohingya* (musulmanes) y aprovechó totalmente la situación en su ventaja. Ésto alcanzó para que la juventud budista de Arakan se incorporara inmediatamente al ejército del SLORC por miles. Una vez reclutados, son enviados a las áreas del frente en el este y norte. Por otro lado, el SLORC aumentó los efectivos militares en Arakan y estacionó dos regimientos compuestos principalmente de birmanos solteros quienes reciben incentivos para casarse con jóvenes mujeres arakan.

Esto se hace para debilitar el movimiento de la resistencia nacional del pueblo rakhaing, así como para facilitar el acceso a los recursos - fuerza de trabajo, bosques, etc. Ya muchas aldeas de los municipios de Kyauktaw, Rathodaung, Buthidaung y Maungdaw han sido relocalizadas por la fuerza. El ejército del SLORC ha impuesto también una conscripción de trabajo en la mayoría de los pueblos en el norte de Arakan para utilizar a sus habitantes como portadores, o en la construcción de la Carretera del Asia y para la construcción de cuarteles militar.

Mucho antes de los birmanos, los rakhaing/arakan ya habían establecido un fuerte reino y su asociación con Birmania es muy reciente. Este reino fue destruido en 1784 por el reino Mandalay (birmano) y subsiguientemente anexado. Pero al poco tiempo Arakan fue traspasado a la Compañía de la India Británica Oriental y el mismo reino birmano fue sometido por los británicos en 1885.

Los rakhaing/arakan, con su cultura e historia distintas, no pudieron ser reconciliados con el enfoque del nuevo gobierno independiente de Rangoon de una cultura y un concepto de un estado nacional birmano. Y cuando se les impuso por la fuerza, se sublevaron en 1948, afirmando su derecho a la autodeterminación. Su movimiento por la autodeterminación ha sufrido muchos altibajos, incluso separaciones dentro del movimiento. Sin embargo, su intento de unificar el movimiento ha hecho progresos y hoy cuatro

grupos se han unido para formar el Partido Nacional Unido de Arakan (NUPA) y con ésto, sólo quedan dos grupos, siendo el otro el Partido para la Liberación de Arakan (ALP).

En conclusión, se debe señalar que es una seria equivocación tratar al SLORC como un gobierno de cualquiera de las partes. La experiencia del varios pueblos de Birmania ha demostrado más allá de cualquier duda, que el único propósito de su existencia es saquear al país y a su pueblo.

TAILANDIA

En Tailandia la crisis forestal se ha convertido en una crisis de los pueblos selváticos. Después de décadas de explotación forestal descontrolada e intensa deforestación en favor de cultivos comerciales de altura, la cobertura forestal del país ha descendido a un alarmante 26%. Las consecuencias fueron dolorosamente sentidas en el Sur, en forma de enormes inundaciones y deslizamientos de terrenos durante la estación lluviosa de 1988, después de las cuales se prohibió totalmente la explotación forestal en todo el país. Subsiguientemente, se trazó un Plan General del Sector Forestal, que prevé una expansión drástica de las áreas de conservación. Casi todas las selvas naturales remanentes serán cubiertas por el Sistema de Área Protegida (PAS), principalmente al servicio de la protección de la conservación de la biodiversidad y la protección de las cuencas. El PAS será extendido de los actuales 35 millones de *rai* a 88 millones de *rai* (14,08 millones de hás.), o sea el 28% de la superficie total del país, disponiendo el estado del pleno control de esas tierras. De las restantes tierras forestales estatales, por lo general deforestadas, unos 7 millones de *rai* son asignados a la agricultura y 52 millones a la silvicultura y proyectos agroforestales. Estas tierras serán enajenadas a individuos o arrendadas en una base transferible y a largo plazo, a individuos, comunidades o corporaciones en el marco de un programa de reforma agraria.

Como parte de la división en zonas, se clasifican todos los pueblos de las montañas conforme a su «potencial de permanencia», con la consecuencia de que un total de 12.360 pueblos de toda Tailandia -muchos de ellos comunidades indígenas- enfrentan la amenaza de ser trasladados fuera las planeadas áreas PAS. Como la experiencia ha demostrado, las comunidades reasentadas sufren severas dificultades, principalmente porque la tierra agrícola re-

cibida en compensación es insuficiente y de mala calidad, y no existen otras fuentes de ingreso disponibles a nivel local, forzando a muchos aldeanos a emigrar a otra parte.

Conservación forestal, planes de reasentamiento y respuesta de los pueblos indígenas

La nueva ley forestal comunitaria, actualmente en discusión, contribuye muy poco a la solución de la crisis forestal y a los problemas de los pueblos de la selva. Aunque una gran parte de las comunidades selváticas vive en la áreas de conservación, la implementación de la silvicultura comunitaria está sólo prevista para 52 millones de *rai* de la tierra clasificada como forestal fuera de los PAS. Y el estado sigue siendo el propietario legal de las tierras forestales comunitarias.

Las ONGs y los institutos académicos interesados (la Fundación de Desarrollo Local, el Proyecto por la Recuperación Ecológica, el Comité Coordinador del Desarrollo Rural de las ONGs, la Acción Investigadora para las Comunidades Selváticas) han planteado una propuesta alternativa de ley forestal comunitaria, la cual representa una herramienta mucho más poderosa para proteger los derechos de las comunidades forestales, brindando al mismo tiempo una solución a la crisis de la silvicultura. Existe un creciente convencimiento, proveniente de las últimas dos décadas de experiencias de manejo forestal y de los programas de conservación de la biodiversidad, de que el uso sustentable de las selvas y la protección de los hábitat naturales pueden lograrse en forma más adecuada con la participación de los pueblos locales que habitan en las áreas respectivas, o en su cercanía. No obstante, la participación y la cooperación popular pueden solamente asegurarse si se les otorga derechos claros al uso y manejo de la tierra y de los recursos forestales.

Los pueblos indígenas de Tailandia están de acuerdo con el gobierno en la necesidad de conservar los bosques restantes y el patrimonio biológico del país. No obstante, no están de acuerdo con el procedimiento a seguir. Ellos quieren permanecer en el lugar donde ellos y sus antepasados han vivido desde mucho antes de la promulgación de la legislación de protección forestal, y quieren encontrar formas de coexistencia pacífica entre los pueblos y las selvas.

En realidad, muchos de los pueblos indígenas de Tailandia han practicado tradicionalmente la conservación y en consecuencia han mantenido un medio ambiente rico y variado, guiándose por sus tradiciones, heredadas de sus antepasados.

Aunque la racionalidad científica de hoy y las fuerzas de la

economía de mercado han corroído la influencia de estas tradiciones, los pueblos indígenas de Tailandia todavía creen en la potencialidad de su sabiduría tradicional para vivir en armonía con la naturaleza, como lo hicieron sus ancestros en el pasado. Y ellos están dispuestos a hacer compromisos y cooperar con el gobierno en los programas de la conservación.

En 1993 se fundó la Red de Agricultores del Norte (NFN), una asociación flexible de organizaciones de pueblos locales, evolucionando a partir de una red regional. Actualmente, la NFN comprende a 89 aldeas de 9 provincias del norte de Tailandia, pero su número de miembros crece continuamente. Todas estas aldeas miembro están localizadas en áreas propuestas para la conservación y están amenazadas con la expulsión de sus tierras. Un total de 2.277 comunidades -principalmente indígenas- del Norte se encuentran en esta situación. La mayoría de las comunidades miembro de la Red son comunidades indígenas, pero se les incorporaron también comunidades de las tierras bajas que enfrentan la misma amenaza.

La NFN no exige que se otorgue pleno control a las comunidades de todas las áreas forestales. La NFN está de acuerdo con la necesidad de crear áreas de conservación, pero exige que sean excluidas el área de asentamiento de las comunidades selváticas, sus tierras de cultivo y una selva comunitaria. Exigen el título de propiedad del área de asentamiento y de la tierra usada para la agricultura permanente, y claros derechos de uso de la tierra «swidden» y de la selva comunitaria. Ésto les permitiría trazar su propio plan de manejo de recursos y cooperar con el gobierno en la protección de esas áreas de su antiguo territorio comunitario, el cual será convertido en área de conservación.

La NFN organizó una marcha de protesta del 27 de abril al 3 de mayo de 1995, a la cual se incorporaron varios miles de aldeanos. Partiendo de Chiang Mai, los aldeanos marcharon a Lamphun, donde representantes de NFN presentaron sus demandas al ex Ministro de Agricultura y Cooperativas, Prachub Chayasarn.

Su petición exigía:

1. Para las comunidades ya reasentadas:

- a) la asignación de tierra suficiente y una compensación adecuada por las pérdidas financieras,
- b) la concesión de derechos permanentes de uso de las plantaciones establecidas en su anterior área de asentamiento,

- c) la provisión adecuada de agua y suministros eléctricos en los lugares de reasentamiento;
2. La detención de los reasentamientos y que el área de reasentamiento, las tierras agrícolas y las selvas comunitarias de cada aldea situada en áreas de conservación sean delimitadas y excluidas del área protegida. Se deberían otorgar títulos de propiedad para las dos primeras y derechos de uso para las últimas;
 3. Que la titulación y la enajenación de tierras comunitarias a forasteros sea detenida inmediatamente, y la tierra ya enajenada se devuelva a las respectivas comunidades;
 4. Que la ley forestal comunitaria alternativa propuesta por individuos y ONGs interesados sea estudiada y adoptada;
 5. Que se establezca un comité compuesto de representantes de los aldeanos, ONGs, académicos, gobiernos provinciales y del parlamento, y sea autorizado por el Primer Ministro a encontrar e implementar soluciones a los problemas de las comunidades selváticas relativas al programa de conservación.

El ministro reaccionó positivamente a estas demandas, y estableció el propuesto comité el 9 de mayo. Sin embargo la autorización no fue concedida todavía por el Primer Ministro. Pero poco después de que se descubrieron irregularidades en relación con el programa de reforma agraria en marcha, el gobierno se vio forzado a renunciar y llamar a elecciones, las cuales fueron ganadas por el Partido Chart Thai, bajo la dirección de Banharn Silpa-archa.

El diálogo promisorio y la prevista cooperación entre ONGs, académicos y el gobierno, en el marco del comité establecido por el anterior Ministro de Agricultura y Cooperación, fueron entonces abruptamente interrumpidos antes de poder entrar en funcionamiento. Hasta ahora, el gobierno del Primer Ministro Banharn Silpa-archa, recientemente electo, no ha presentado todavía una política clara sobre el problema de la conservación y del reasentamiento, y el nuevo Ministro de Agricultura y Cooperativas, Montree Phongpanich, no parece estar muy interesado en la cuestión. En cambio, el Primer Ministro al menos expresó en público su interés y apoyo a un enfoque de la silvicultura y la conservación de orientación comunitaria. A comienzos de noviembre del año pasado, ordenó una nueva clasificación de 100.000 *rai* (16.000 hás.) de selvas maduras que el gobierno anterior había destinado a la sil-

vicultura comercial en el marco del programa de reforma agraria que ocasionó su caída. La versión revisada del Plan General del Sector Forestal del Departamento Real de Forestería de 1995 adopta una posición más suave con respecto a las comunidades que habitan en áreas cubierta por el PAS. En realidad, el mismo Departamento Real de Forestería está dividido en una fracción conservadora y una fracción más progresista, favoreciendo y apoyando esta última un enfoque de silvicultura comunitaria en el manejo de las áreas de conservación.

Por consiguiente, la implementación del Plan General a nivel provincial y de distrito varía considerablemente, algunos funcionarios del DRF se ponen de lado de las comunidades selváticas, mientras otros parecen estar determinados a imponer el programa de reasentamiento. Además, el grado de libertad que los funcionarios forestales disponen para llevar a cabo el Plan Forestal General (que en realidad permite diversas opciones para el tratamiento de las comunidades selváticas) a nivel local, depende de la actitud de sus superiores, y por lo tanto, por supuesto, finalmente de la posición asumida por el Ministro de Agricultura y Cooperativas.

NFN ahora intenta restaurar el diálogo con el nuevo gobierno, para convencerlo de continuar con las iniciativas tomadas por el anterior Ministro de Agricultura y Cooperación, para reorientar la política forestal, aprobando una ley forestal comunitaria que incluya las sugerencias realizadas en la versión de las ONGs. La NFN ha convencido al Comité Parlamentario para los Derechos Legales a que realice investigaciones sobre las severas medidas tomadas contra algunas de las comunidades que viven en el área cubierta por la planeada extensión del Parque Nacional Suthep Pui. La misma NFN está realizando actualmente similares investigaciones en todas sus 89 comunidades miembro y presentará los resultados a la Comisión Parlamentaria.

Se ha acordado ya una reunión con el nuevo Ministro de Agricultura y Cooperativas, en la cual esperan convencerlo que permita al comité establecido por su predecesor reasumir su trabajo y obtener la autorización del Primer Ministro. Sin embargo, la NFN no es muy optimista, ya que el nuevo Ministro de Agricultura y Cooperativas ha mostrado hasta ahora poco interés en el asunto. Por lo tanto, la NFN intenta lograr directamente el apoyo del primer Ministro. Piensa presentarle la petición ya presentada al anterior Ministro de Agricultura y Cooperativas durante una reunión personal que se espera tenga lugar a comienzos de 1996.

Ciudadanía y derechos de los pueblos indígenas

Un requisito previo a cualquier negociación a nivel local entre el gobierno y los pueblos indígenas es su reconocimiento como ciudadanos tailandeses. Sin la ciudadanía, todos los intentos de obtener títulos legales u otras formas de derechos a la tierra son fútiles. Un estudio oficial hecho hace 10 años estableció que la proporción de indígenas en posesión de una tarjeta de ciudadanía es del 60%. Sin embargo, personas bien informadas que trabajan con los pueblos indígenas del norte de Tailandia ponen en duda la exactitud de estos resultados y estiman que la cantidad real se ubica entre el 25 y 30%. Por eso, la decisión del gabinete del 3 de octubre de 1995, de conceder el estado de «inmigrantes legales» a los miembros de las llamadas comunidades «tribales de la montaña», marca un progreso en la política tailandesa relativa a las minorías. No obstante, se condiciona la concesión de la ciudadanía a que los solicitantes no hayan vivido menos de 15 años en Tailandia o menos de 10 años ininterrumpidos en el mismo distrito y que dispongan de una «profesión honrada», es decir, en particular que no estén comprometidos en la producción o tráfico de drogas. Especialmente, la previsión acerca del lugar y duración de la residencia en Tailandia plantea el problema de tener que presentar pruebas que tienen que ser aceptadas por las autoridades responsables, una tarea difícil para muchos pueblos indígenas y una previsión que otorga mucho espacio a la arbitrariedad burocrática.

VIETNAM

Desde la creación del Gobierno Socialista de Vietnam la política declarada del Gobierno ha sido la integración social y económica de las minorías étnicas. La ubicación estratégica de las minorías en las áreas fronterizas, la baja densidad de su población en la fecunda Región Montañosa Central, y el hecho de que incluyen más del 13% de la población total, las hace fundamentales tanto para la seguridad nacional como para el desarrollo del país. El Gobierno ha seguido una línea a nivel político, administrativo y económico con perseverancia pero también con resultados muy variados. Desde el principio del Período de la Reforma en 1986, usualmente referido como el Doi Moi o período de la Renovación, las políticas han sido consideradas cada vez más ineficaces y han caído bajo severas críticas tanto dentro del Partido Comunista como externamente por parte de la comunidad de ayuda internacional.

La situación de las minorías étnicas

Como resultado del aumento de la actividad de las ONGs internacionales pero también más recientemente por la actividad del Banco Mundial, el Banco Asiático de Desarrollo, UNDP y UNICEF, se ha llegado a disponer de información más general y detallada sobre las minorías étnicas. Los datos demográficos muestran que las minorías étnicas han aumentado del 13,1% al 13,56% de la población entre 1989 y 1995 debido a las tasas de crecimiento demográfico más altas, en forma relativa, de todos los grupos étnicos en comparación con los *kinh*. El tamaño de la familia es más grande, así como también la tasa de mortalidad infantil mientras que la expectativa de vida es considerablemente más baja. La concentración más densa de indígenas está en la Zona Montañosa Septentrional, la cual incluye once provincias y en la Región Montañosa Central que abarca cuatro provincias. La población étnica en estas dos zonas (que implica el 75% de la población étnica total de Vietnam) constituye aproximadamente el 60% y el 34% respectivamente de la población total. La población étnica en las áreas rurales es incluso mayor, constituyendo el 70% y el 43% respectivamente. Un hecho llamativo es que en estas áreas las minorías étnicas no son, de hecho, una minoría sino la mayoría de la población.

La migración organizada ha sido un rasgo característico de la política del Gobierno desde la reunificación. Desde 1974, 920.000 personas se han trasladado a la Zona Montañosa Septentrional, aunque la migración espontánea ha llegado a ser la forma prevaiente después de la relajación de las reglas sobre movimiento en el interior del país. El punto central para los desplazamientos de las minorías y la migración *kinh* ha sido la Región Montañosa Central y en particular la provincia de DacLac. Entre ellos se encuentran los *h'mong* de la provincia de Cao Bang, en el Norte, pobre en recursos, y grupos *tay-nung* que se han desplazado como consecuencia del involuntario reasentamiento causado por la construcción de la represa Hoa Binh. Datos recientes, todavía no verificados, parecen indicar que la migración espontánea ha aminorado considerablemente durante los últimos dos años.

Las familias étnicas son principalmente agricultores de subsistencia que viven bajo el nivel de pobreza, tanto en términos relativos como absolutos. Un estudio del Banco Mundial basado en la Investigación sobre el Nivel de Vida de Vietnam, ubica al 59% y 50% de la población total por debajo del nivel de pobreza en la Zona Montañosa Septentrional y la Región Montañosa Central

respectivamente. Su pobreza es el resultado de su aislamiento geográfico, su pobre base de recursos y la degradación de su medio ambiente, que disminuye su seguridad alimenticia y les expone a riesgos de producción mayores.

Su aislamiento está exacerbado por las diferencias idiomáticas que hacen difícil acceder a los mercados comerciales y de trabajo, y beneficiarse de los servicios gubernamentales y de la instrucción pública. Además de su aislamiento geográfico, están también culturalmente aislados, y les es difícil expresar sus puntos de vistas y opiniones, siendo a menudo abandonados en un silencio pasivo. Sus métodos de producción están centrados en la agricultura «swidden», con períodos de barbechos que se hacen cada vez más cortos a causa de la presión demográfica y la escasez de tierra. Al disponer de suelos cada vez menos fértiles, son cada vez menos capaces de producir alimentos suficientes y tienen que aplicar estrategias alternativas para sobrevivir. Las oportunidades que se les ofrece son la diversificación de la producción, el trabajo asalariado, la venta de recursos o adaptarse a una alimentación insuficiente, pero no están abiertos a opciones individuales como artículos de supermercado. Aunque la diversificación es obviamente la solución favorita, requiere acceso al crédito, y el crédito requiere garantía subsidiaria.

Los problemas de salud de las minorías étnicas siguen siendo severos. Estudios emprendidos en la Zona Montañosa Septentrional informan una alta incidencia de malaria, disentería, desnutrición, infecciones respiratorias agudas y problemas de salud de la mujer, como los más comunes. Otros problemas son la deficiencia de yodo, la plaga bubónica y la lepra. La infraestructura de los servicios de la salud difiere mucho según las provincias, habiendo más capacidad en las región Montañosa Central que en la Zona Montañosa Septentrional. No obstante, el impedimento principal para una mejora sigue siendo salvar la brecha cultural y física entre las minorías étnicas y el personal de la salud. Aunque tienta explicar los problemas de la salud de las minorías étnicas refiriendo a su etnicidad, es más probable que sean causados por su ubicación remota y el hecho de que muchas de las minorías étnicas no habla vietnamés.

La cuestión del idioma presenta problemas especiales para los niños de las étnias minoritarias. El idioma de instrucción y el material de enseñanza es el vietnamés. A este problema se le suma el hecho de que a menudo se han trasladado a las mismas áreas a varias minorías étnicas, por lo que se hablan varios idiomas étnicos en la misma aula. La política del gobierno permite el uso del idioma

étnico en la enseñanza y la reforma de hasta un 20% del plan de estudios para satisfacer las necesidades locales, pero ésto se hace muy raramente. El Gobierno ha reconocido estas limitaciones y hace actualmente esfuerzos para mejorar la situación. En relación con un gran préstamo del Banco Mundial, el Ministerio de Educación prepara maestros en varios idiomas étnicos. Otro ejemplo lo constituye un programa de enseñanza multigrado comenzado por UNICEF.

Un problema estrechamente conexo con la inicial falta de capacitación en la lengua vietnamesa entre los niños, es el falta de capacidad en lenguas étnicas minoritarias por parte del cuerpo docente. El problema es reconocido por el Gobierno y se han introducido varias medidas, incluso incentivos a maestros kinh y estudiantes étnicos minoritarios que quieran ser maestros. Sin embargo, los esfuerzos son generalmente esporádicos y no se otorgan recursos suficientes ni prioridad al problema.

Políticas actuales del gobierno

El más viejo de los programas del Gobierno es el Programa de Cultivos Fijos y Reasentamiento, comenzado en 1968, para asentar a campesinos étnicos migrantes en asentamientos permanentes, terminar con el cultivo alternado y proveer acceso adecuado a los servicios sociales y económicos. La presunción era, por muchos años, que la provisión de puestos sanitarios, escuelas, suministros de agua y acceso a los mercados, sería un factor decisivo para convencerlos de quedarse en las áreas asignadas a ellos. El programa fue planeado centralmente y ejecutado con poca preocupación por los anhelos y aspiraciones de las minorías, sin el respeto básico por sus creencias, habilidades, conocimiento y derecho consuetudinario. Todavía está en funcionamiento aunque con un enfoque diferente y absorbido por programas más grandes. No obstante, las reformas económicas están fuertemente influenciadas por el pensamiento del Partido.

La primera y más importante indicación de que había un cambio en marcha fue la Resolución 22, emitida por el Partido en noviembre de 1989 y que confirmó la importancia de las minorías étnicas para el desarrollo de la Nación, el desarrollo potencial de las regiones montañosas y su importancia estratégica, y también contenía una fuerte crítica a las políticas anteriores, en particular en el área económica. La resolución sostenía que la creación de Nuevas Zonas Económicas (NEZ), Granjas del Estado y Cooperativas ha contribuido a la pobreza creciente de las minorías étnicas en lugar

de asistir a su alivio. Esta resolución fue seguida por la Decisión 72 del Concejo de Ministros, en abril de 1990, para guiar las reformas económicas generales en las áreas montañosas, ayudando a la transición al mercado económico y la reinstalación de la familia como la fuerza impulsora de las reformas. Esta decisión sigue jugando un papel importante en los debates políticos, ya que introduce la necesidad de concentrarse en la generación de ingreso en lugar de la creación de autosuficiencia en la producción de alimentos. Sin embargo, las directivas eran lamentablemente escasas en medidas concretas para ayudar a la transición y contribuyeron poco al cambio de la situación de las minorías étnicas.

En septiembre de 1993 el Gobierno organizó una conferencia nacional para revisar la implementación de las resoluciones y como resultado se tomaron dos decisiones fundamentales. La primera fue la Instrucción 525 de noviembre de 1993, que incluyó detalladas instrucciones para la aceleración del desarrollo de las zonas montañosas y las áreas étnicas minoritarias. Segundo, se lanzó un programa de desarrollo a gran escala, el 327 - Reverdecimiento de las Colinas Estériles. Estas dos decisiones forman la piedra angular de las políticas presentes y ya han tenido una influencia decisiva en la vida de las minorías. Desgraciadamente, el rápido acrecentamiento de las actividades del Gobierno ha dado por resultado una cierta confusión a causa de la falta de definición clara de objetivos y la falta de coordinación entre las varias políticas y programas.

Cuestiones críticas en la política del Gobierno

La cuestión principal en la política del Gobierno es la actitud fuertemente paternalista, aunque a menudo benevolente, que impregna la política y las personas que la implementan. Esta actitud no está sólo reservada a las minorías étnicas sino también se aplica a otros grupos minoritarios tal como las «víctimas de enfermedades sociales». No obstante, durante 1995, el Gobierno participó en varias conferencias internacionales que condenaron esta actitud y puede que tenga un efecto duradero en su política. Una gran delegación vietnamita participó en la Cumbre Social en Copenhague, y sus resoluciones se siguieron muy vigorosamente en el debate interno y también se reflejaron en las discusiones con la comunidad de ayuda internacional. El Banco Mundial, UNDP, UNICEF y SIDA comisionaron extensos estudios sobre el problema de la pobreza e incluyeron capítulos separados sobre los problemas específicos de las minorías étnicas en sus informes finales. Un miem-

bro mayor del Concejo de Nacionalidades y un indígena hmong participaron por primera vez en el Grupo de Trabajo sobre Poblaciones Indígenas de la ONU, en agosto, y comenzaron un diálogo con otros miembros del Grupo de Trabajo y de la organización de la ONU.

Otra cuestión sería es que los programas del Gobierno están mal orientados y tienden a superponerse. Esencialmente, clasifican a los grupos específicos basados en los criterios siguientes:

- Situación de pobreza evaluada por funcionarios locales.
- Elevación del área sobre el nivel del mar.
- Sistema agrícola y modelo de asentamiento.

Las minorías étnicas podrían tener derecho a la ayuda de acuerdo con los tres criterios. Sin embargo, la mayoría de los programas combinan la ayuda a personas étnicas junto con kinh que viven en las áreas montañosas. Como los kinh viven cerca de los centros urbanos y tienen mayor incidencia política, las personas étnicas se encuentran a menudo en una situación de desventaja en la competencia por los escasos recursos. Si reciben ayuda, es a menudo programada como entregas de beneficencia, como el programa de Subsidio de Artículos Esenciales que tiende a hacerles destinatarios pasivos del bienestar. Los esfuerzos de la comunidad internacional de ayuda para introducir un sistema de clasificación más justo basado en el Índice de Desarrollo Humano de la ONU, están actualmente en discusión.

Aparte de estas cuestiones, los conflictos sobre la tenencia de la tierra siguen siendo la amenaza más seria a la supervivencia de los grupos étnicos. Mientras que el sistema de cultivos «swidden» ya no es más un sistema de producción viable y sustentable porque la densidad de población ha alcanzado niveles que lo hacen redundante, el cambio de sus sistemas de cultivo hace indispensable afianzar sus tenencias por períodos prolongados de tal manera que las inversiones sean rentables. Desgraciadamente, estudios del efecto de las políticas presentes parecen apuntar en la otra dirección. Los derechos al uso de la tierra, particularmente en la Región Montañosa Central se conceden, no a individuos sino a organismo mayores tales como el clan y no se confinan sólo a tierras. Esta visión colide con la legislación del Gobierno y las prácticas de asignación de la tierra. La práctica de la agricultura «swidden» requiere que la tierra quede en barbecho por períodos prolongados. Sin embargo, a menudo tal tierra se clasifica como yerma o baldía y su uso es

restringido. La solución a este problema sigue siendo el desafío más grande para las personas étnicas y el Gobierno vietnamés.

MALAYSIA

Los desafíos principales que enfrentan los pueblos indígenas de Malaysia siguen siendo lograr que el gobierno reconozca sus derechos a la tierra, sus derechos a decidir el tipo de desarrollo que desean, sus derechos a la educación y estilo de vida y exigir un igual acceso a los servicios básicos. El seminario de los pueblos indígenas, una reunión anual de representantes indígenas de Sabah, Sarawak y Malaysia peninsular, discutió estas cuestiones y elaboró un plan de acción para el año próximo. El seminario realizado en Sabah, en agosto de 1995, formalizó la Red de Pueblos Indígenas de Malaysia, la cual comprende nueve organizaciones indígenas- formales y *ad hoc*-, apoyadas por tres ONGs.

Los miembros de la Red han apoyado activamente el uno al otro a través de actividades conjuntas, campañas y cabildeos en busca de ayuda. Se iniciaron campañas locales en la forma de pequeños seminarios para organizar las opiniones populares sobre las leyes de tierras e iniciaron su *adat* propio en Sabah. Éste está preparando el lanzamiento de una campaña a nivel nacional a través de una conferencia, en agosto de 1996, con el objetivo de lograr la lucha popular para la reivindicación de estos derechos, los cuales están puestos también de manifiesto en cuestiones específicas en las tres regiones - Sabah y Sarawak en Malaysia oriental y en Malaysia peninsular.

En Sabah, ubicada en la parte norte de la isla de Borneo, hay 39 grupos étnicos diferentes, constituyendo el 50 % de la población de Sabah, de dos millones de habitantes (incluyendo a 506.900 ciudadanos no malayos, predominantemente de Filipinas e Indonesia). La ley que afecta las tierras consuetudinarias indígenas o nativas, introducida por los británicos, es defectuosa y en muchos casos, está directamente en conflicto con la tierra tradicional *adat*. Las políticas para abrir y otorgar tierras a agencias del gobierno y corporaciones, con el objeto de impulsar plantaciones de palmeras oleaginosas y de árboles, construcción de represas, áreas industriales y minería, también continúan amenazando a muchas comunidades indígenas o causan la pérdida de su tierra tradicional o consuetudinaria.

Muchas comunidades indígenas han perdido también su tierra o sufrieron el efecto de la explotación maderera cuando aproximadamente 3.593.809 hectáreas, o sea el 48,8 % del área forestal total de Sabah, fueron clasificadas como Parques y Reservas Forestales. La mayoría de las reservas están destinadas a la explotación maderera y las comunidades nunca fueron informadas de que se había incluido su tierra tradicional en ésta área de reserva hasta que las compañías llegaron al área. Aparte de en las reservas forestales, la explotación maderera es también permitida en «los bosques de tierras fiscales» (3.777.458 hás.). Y una vez registrada como reserva forestal, la titulación de tierras dentro de la reserva no se aceptará hasta que finalice el período de la concesión (entre 5 a 25 años). Las experiencias obtenidas en Tawau, en la costa oriental de Sabah, han mostrado que la tierra no vuelve a manos de las comunidades después de que un área deja de ser registrada como reserva forestal. En cambio es enajenada a otras agencias gubernamentales o vendida a corporaciones privadas para hacer plantaciones de palmera oleaginosa.

La visión de Malaysia para el año 2020 identifica a Sabah y Sarawak como la vaca lechera -la base de recursos- de materias primas, especialmente la palmera oleaginosa y la madera. En función de esto, se han enajenado grandes áreas de tierra a la Dirección de Desarrollo Rural de Sabah (SLDB), la Autoridad Federal de Desarrollo Rural (FELDA) o han sido vendidas a compañías privadas para la apertura de plantaciones de palmera oleaginosa. Ya se ha asignado el 12 % del área total de tierras para plantaciones, incluyendo tierras tradicionales de pueblos indígenas. El no reconocimiento de los derechos a la tierra de los pueblos indígenas ha sido la causa de que muchos perdieran la tierra a cambio de una pequeña, o ninguna, compensación; y de la alteración de la vida debido al reasentamiento.

La Autoridad de Desarrollo Forestal de Sabah (SAFODA) es otra agencia gubernamental que lleva adelante plantaciones de *acacia mangium* y otras especies de árboles de crecimiento rápido en diversas partes de Sabah - la mayor de las cuales está en Bengkoka peninsular, cubriendo 150.000 hás. de tierra. Prácticamente cubre el área entera y la mayoría del pueblo *rungu* se encuentra ahora no sólo con un área limitada para plantar arroz de montaña - su alimento principal- y otras cosechas necesarias para la supervivencia, sino que también enfrentan grandes dificultades debido a los riesgos de incendio en las plantaciones de árboles.



Danza del bambú durante al Día Mundial Internacional de los Pueblos Indígenas, 1995, Malaysia. Foto: PACOS

La política del gobierno de privatizar sus numerosas agencias ha conducido a críticas de parte de muchas comunidades indígenas e instituciones. Por ejemplo, cuando las Industrias Forestales de Sabah (SFI) fueron privatizadas en 1994, las 288.623 hás. de tierra previamente enajenadas a dicha institución según la Sección 28 de la Ordenanza de Tierras de Sabah de 1930, pasaron a ser propiedad privada de individuos. Se adquirió la tierra con «fines de interés público» - una plantación de árboles para un proyecto de pulpa de madera y papel.

Muchas comunidades indígenas consideran importante garantizar la propiedad de las tierras tradicionales mediante la obtención de un título de propiedad. Muchas solicitan títulos individuales porque las comunidades no están informadas de la previsión referente a títulos comunales. Muchas comunidades indígenas han comprendido desde entonces que tener un título no garantiza la tenencia, ya que la tierra titulada puede adquirirse compulsivamente. La comunidad *dusun* de Tampasak/Babagon, en la costa oeste, descubrió esto cuando su tierra fue adquirida compulsivamente para la construcción de una represa. La falta de reconocimiento sobre su tierra tradicional y su importancia para su estilo de vida, hace que la

compensación sea una cuestión espinosa. Los aldeanos exigen todavía del gobierno, compensación justa por su tierra tradicional y por la profanación de tumbas; y que se cumpla con sus demandas de mejores viviendas, tierras de cultivo y servicios básicos en el área de reasentamiento.

Sólo unas pocas comunidades han logrado «detener» a las compañías o agencias en la adquisición de su tierra tradicional (los proyectos son a menudo resucitados después de su cancelación). Uno de esos casos es la propuesta plantación de palmeras oleaginosas en Dalit, en el distrito del interior de Keningau, hogar de las comunidades *murut* y *lun dayeh*. En 1992 el SLDB renovó su plan de abrir aproximadamente 20.000 hás. de tierra - 5.000 hás. de tierras tradicionales y otras 15.000 hás. de Reserva Forestal después del rechazo del proyecto en 1989. Después de una larga disputa, se rechazó de nuevo el intento del SLDB de lograr que la Reserva Forestal, cuatro veces sujeta a la explotación maderera, fuera enajenada al mismo. Las comunidades tienen que lograr ahora que el gobierno reconozca la importancia de su economía de subsistencia y su seriedad en la conservación del bosque, para impedir que el gobierno comience otro proyecto que desplace al pueblo.

En Sarawak, los 10.000 *penan* continúan enfrentándose a amenazas a sus vidas debido a la explotación maderera. La mayoría de los *penan* son ahora semi-sedentarios y sólo 400 siguen siendo cazadores/recolectores nómadas. Como su vida está intrínsecamente unida a los bosques, es imperativo para ellos detener a la compañía maderera. El último bloqueo importante en Sungai Sebatu fue desmantelado por personal policíaco y paramilitar, junto con trabajadores de la compañía maderera, en septiembre de 1993. En marzo de 1995, una misión investigadora desenmascaró amenazas continuas e intimidación, violación y otros ataques por parte del personal paramilitar. Se informó también de la contratación de gánsters por la compañía maderera con el objetivo de matar a personas que se oponen a la explotación maderera. Las comunidades también informaron que se ha detenido el servicio médico aéreo (la mayoría de las áreas son sólo accesibles por aire y parcialmente por caminos y a pie) pero esto fue negado por el gobierno.

La lucha del pueblo contra el proyecto de la represa de Bakun, que había sido descartado pero no obstante resurgido en 1993, alcanzó su cima en 1995 cuando la limpieza del bosque en el área propuesta para la reserva de aguas fue acelerada en preparación para la construcción del dique. Una compañía local, Ekran obtuvo

el proyecto del dique, el cual se estima que inundará 700 km², afectando a 8.000 comunidades indígenas (*kenyah*, *kayan*, *penan* y *ukit*). El Comité de Acción Bakun está realizando campañas, activamente, contra la construcción del dique y para aumentar el grado de consciencia de las comunidades, que no tienen claro todavía el impacto del dique.

En Malaysia peninsular, la situación de los *orang asli* sigue siendo precaria. El área total de las reservas orang asli disminuyó en forma real en 2.764 hás. entre 1990 y 1994 - de 20.667 a 17.903 hás. respectivamente. Como estas áreas no están registradas como reservas, ha sido difícil para algunas comunidades resistir las presiones orientadas a su reasentamiento. Las fuentes de estas presiones son diversas - el gobierno (como en el caso de Sepang, en Selangor, donde se reasentó a los *temuan* para dejar lugar al nuevo aeropuerto internacional), las corporaciones (como en el caso de Stulang Laut, en Johore, donde se reasentó a los *orang laut* para permitir la construcción de un complejo industrial), e incluso individuos (como en varias áreas linderas donde trabajadores migrantes locales y extranjeros están parcelando las tierras orang asli para su propio uso).

La última categoría es ejemplificada por el caso Jeli, donde nueve hombres *jahai* son acusados de la muerte de tres usurpadores de tierra no-orang asli. Habían ido al poblado jahai junto con otros tres y habían exigido que los orang asli abandonaran el lugar inmediatamente. Los tres murieron en una escaramuza cuando los jahai fueron a rescatar a su jefe, quien estaba siendo apuñalado.

Cuando uno de los hombres no-orang asli, involucrado en la escaramuza, fue interrogado sobre la razón de su ida al poblado, contestó «a trabajar mi tierra.» Y cuando se le pidió prueba de su propiedad a la tierra, dijo «empecé a trabajar en ella, por lo tanto es mía. Los orang asli no pueden poseerla pues no tienen casas en ella, sólo chozas de paja.» No obstante, el caso continúa y ocho abogados defienden a los acusados jahai, quienes están actualmente libres bajo fianza. Por ahora, el caso Jeli parece estar a favor de los orang asli. Mediante este caso y otros casos jurídicos así como por la publicación de diversos materiales, ahora están empezando a emerger cuestiones referentes a los derechos a la tierra y a la pérdida de tierras.

INDONESIA

Política del Gobierno de Indonesia relativa a los pueblos indígenas

A pesar del hecho que Indonesia basa su ideología estatal en «Pancasila» (los cinco principios básicos) que tiene sus raíces en las riquezas culturales de la sociedad multiétnica indonesia, el presente gobierno estatal no reconoce la existencia de los pueblos indígenas. El argumento es clásico: que todos los indonesios son indígenas. Este punto de vista es una simplificación basada en la traducción de la palabra indígena, que en indonesio significa *asli* (original, el opuesto de *asing*, que significa extranjero). Comparado con un país como los E.E.U.U., este argumento es absolutamente correcto. Sin embargo, el término indígena realmente contiene un concepto más amplio: implica una interrelación entre el punto de vista político, histórico-cultural, social, económico y religioso. Considerando estos hechos y para evitar una interpretación engañosa, nosotros, en indonesia, traducimos el término «pueblos indígenas» como *Masyarakat Adat*.

El Ministro del Medio Ambiente del estado indonesio, Sarwono Kusumaatmadja cambió el término «Año de los Pueblos Indígenas-1993» por «Año de las Poblaciones Tradicionales.» También usó el término «grupos de población vulnerables» en lugar de pueblos indígenas. Los otros términos que normalmente usa el Gobierno de Indonesia (GOI) son: *suku terasing* (tribus desposeídas), *masyarakat terasing* (comunidades desposeídas), *peladang berpindah* (agricultores rotatorios), *perambah hutan* (destructores del bosque/intrusos), *masyarakat primitif* (comunidades primitivas). Los pueblos indígenas perciben tales términos como una discriminación social y cultural e intimidación. El uso de esos términos legitima la política del GOI sobre los pueblos indígenas. Porque son primitivos, desposeídos, destructores del bosque, agricultores rotativos, tienen que ser modernizados. No tienen ningún derecho de propiedad, ningún patrimonio cultural, ninguna organización social ni política.

Entonces, a nivel de la implementación de esta política, los pueblos indígenas son víctimas del proceso de desarrollo y de la modernización. Esta política y su implementación son parcialmente causadas por la Propuesta para la Acción del Primer Decenio para el Desarrollo de la ONU, 1960-1970, que establece que: «El problema de los países subdesarrollados no es sólo el crecimiento justo, sino el desarrollo... El desarrollo es crecimiento más cambio. El cambio, a su vez, es social y cultural así como económico, y cualitativo y cuantitativo...»

Siguiendo esta visión, la explotación económica, la dominación cultural y social en los países subdesarrollados o comunidades son válidas mientras que apunten al cambio económico, cultural y social.

Papúa Occidental y Freeport

Amungme significa el pueblo originario, uno de los cientos de grupos étnicos de Papúa Occidental (Irian Jaya). Su idioma se llama *amungkal*. Es básicamente un pueblo de la montaña, aunque algunos de ellos habitan en la llanura. Para ellos la tierra tiene un significado sumamente unificador y profundo en sus vidas.

«La Tierra es el lugar donde vivimos. Es la tierra que nos da vida. La tierra es también donde viven las almas de nuestros antepasados, y es la fuerza de nuestra vida. La tierra es nuestra madre quien nos dio nacimiento, nos alimentó, nos cuidó, nos educó y nos crió, constituyendo la tribu amungme tal como es ahora.»

Desde 1967, los 14.000 amungme han sido objeto de explotación y opresión por el GOI a través de la enorme compañía minera PT. Freeport Indonesia Company (FIC). Los datos actuales muestran que FIC dispone de un área minera y de exploración total de 2,6 millones de hectáreas que abarcan el territorio de los pueblos amungme, *comoro* y *dani*. La cantidad de mineral extraído por FIC asciende a más de 100.000 toneladas secas métricas por día.

Los conflictos entre Freeport-GOI, por un lado y los pueblos locales, por otro lado, se transformaron en noticias de actualidad en 1995. La Comisión Indonesia de Derechos Humanos y el Obispo Msr. Munninghoff (Obispo católico de la Diócesis de Jayapura) estuvieron de acuerdo en el hecho de que, en 1995, se había matado a 16 civiles y cuatro desaparecieron. Sin embargo, la comisión de Australia, encabezada por el Embajador Alan Taylor, concluyó que los muertos eran 22 y los desaparecidos 4 (Inside Indonesia, diciembre de 1995).

Además, la Comisión Indonesia de Derechos Humanos hizo cuatro recomendaciones: (1) que se tome acción contra los responsables militares; (2) que se entregue indemnización; (3) que el gobierno local, el ejército y Freeport clarifiquen su relación y líneas de responsabilidad; y (4) que el «enfoque de seguridad» y la práctica de la estigmatización de personas (como *Gerakan Pengacau Keamanan* - El Movimiento contra el Quebrantamiento de la Seguri-

dad/OPM-Organisasi Papua Merdeka-Organización por la Independencia de Papúa) sean revisadas.

El informe de la Comisión no especifica la participación directa de Freeport en el caso. Tomando en cuenta este hecho, cinco de las ONG más importantes de Indonesia: WALHI (Foro Indonesio para el Medio Ambiente, LPPS (Instituto de Investigación Social y Desarrollo, Conferencia Episcopal de Indonesia), LBHI (Fundación Indonesia para la Ayuda Legal), INFID (ONG Internacional para el Desarrollo de Indonesia) y ELSAM (Instituto de Investigación y Defensa Política) recordaron a la Comisión que el informe Munninghoff declaró que algunos abusos ocurrieron en la propiedad de Freeport, usando su planta.

Los krio dayak queman campamento maderero

Dayak es un nombre colectivo para los pueblos indígenas de Kalimantan, y constan de 450 grupos etnolingüísticos. La población total dayak en Kalimantan es de aproximadamente 3 millones de personas. La población total de la parte indonesia de la isla es de 7,5 millones de personas. La llegada de proyectos de desarrollo capitalista a Kalimantan desde 1970 ha roto la paz silenciosa de los dayak, y también degradado el medio ambiente forestal más antiguo del mundo. Los conflictos más severos son entre los Proyectos de Explotación Forestal Industrial y el pueblo local dayak en varias áreas separadas.

El 11 de agosto de 1994, 1.600 personas de nueve aldeas en el sub-distrito de Sandai, Distrito de Ketapang, Kalimantan Occidental, realizaron una manifestación de protesta contra PT Lingga Tejawana, una Compañía HTI (Plantación Forestal Industrial) que opera en las cercanías. La acción comenzó aproximadamente a las 9.00 de la mañana. El 10 de agosto de 1994, un puente localizado cerca de la aldea de Randau fue quemado por los manifestantes para interrumpir el canal de transporte al Campamento-Base IX, donde se desarrollaba la acción. Los manifestantes querían negociar con el gerente del sitio del proyecto. Sin embargo, éste no estaba presente. Se confrontaron entonces con el secretario del gerente del sitio quien actuó en forma muy arrogante y molestó a la gente, quienes a su vez, en respuesta comenzaron a quemar la propiedad de la compañía.

Se evalúan las pérdidas totales de la compañía en 5 mil millones de Rp (US\$ 2,3 millones), incluyendo a 10 campamentos-base, 6 tractores, 4 sondas, 2 camiones, 3 automóviles, 2 escavadoras, 30 sierra

mecánicas, 7 motores diesel, un puente, y diez hectáreas de plantación.

El suceso es la acción más espectacular realizada alguna vez contra el proyecto HTI en Kalimantan Occidental. El *Bupati* (Jefe del Distrito) fue a la localidad el día próximo. No se logró ningún acuerdo en el diálogo. Las personas querían que se les devolviera la tierra, y ellos querían que la compañía hiciera el proceso de reclamación de la tierra antes de devolverla al pueblo. «Devuelvan nuestra tierra ancestral,» se convirtió en el grito de batalla del pueblo.

La acción constituye el reflejo de la resistencia de los dayak de la zona contra la agresión del desarrollo impuesto desde arriba. Fue también una reacción contra la ignorancia del derecho de propiedad de los pueblos indígenas. Los *krio*, *pawan* y *jekak dayak*, nunca fueron consultados por PT (Sociedad de Responsabilidad Limitada) Lingga Tejawana sobre su plan de comenzar el proyecto HTI. Cuando la gente se quejó porque la compañía destruía sus árboles frutales, la compañía contestó que esas frutas no fueron plantadas por ellos. Además, el gerente del sitio les dijo que los dayak son estúpidos. «Sus cerebros no están en su cabeza, sino en sus rodillas.»

Además de tal intimidación cultural, la compañía puso algunos avisos escritos en la tierra de los indígenas, p. ej., «*Hutan ini milik negara*» (El bosque pertenece al estado); «*Dilarang berladang di areal HTI*» (Ningún cultivo en la propiedad de HTI); «*Boleh berladang asal tidak ditanam karet*» (se permite cultivar pero no plantar caucho). La compañía también taló el bosque originario, e interrumpió el suministro de agua y recursos.

Los indígenas de las nueve aldeas solicitaron una compensación de Rp 5 mil millones a la compañía por sus pérdidas culturales, sociales, religiosas y naturales. El gobierno local y la compañía rechazaron pagar tal compensación. En cambio, el gobierno envió un equipo para persuadir a la gente de que entregara sus tierras. Al mismo tiempo, el comando militar local también envió tropas a la localidad. Se dijo a los habitantes locales que las tropas no eran para intimidarlos, sino para realizar ejercicios de guerra para prepararse para una misión militar en Timor Oriental.

La gente, ayudada por Walhi, entonces fue a Jakarta a expresar sus preocupaciones a los funcionarios indonesios de más alto nivel. Por ahora, el funcionamiento de PT Lingga Tejawana está detenido, sin que exista una situación clara.

Los bakati dayak protestan contra PT Nityasa Idola (NSI)

El caso Belimbing proviene del mismo problema. Los *bakati dayak* de la aldea de Belimbing nunca fueron debidamente consultados por PT Nityasa Idola (NSI) cuando la compañía comenzó a plantar sus 120 hás. de plantación experimental, localizada a 5 km. de Belimbing, en el sub-distrito de Ledo, Distrito de Sambas, Kalimantan Occidental. La compañía piensa abrir 120.000 hás. de Pulpa-HTI, y comenzó sus plantaciones experimentales en una superficie de 120 hás.

Los habitantes locales habían solicitado a la compañía, tal como se declara en la carta popular al presidente Suharto de fecha 11 de octubre de 1995, detener las actividades, ya que el proyecto ocuparía sus tierras de cultivos, el bosque de la reserva, los cultivos de árboles frutales, y las tierras sagradas. La compañía contestó que habían obtenido la aprobación de la aldea a través del jefe de la aldea y otros diez miembros de la comunidad. La gente entonces escribió algunas cartas a la Cámara de Representantes local, a las autoridades del Distrito de Sambas, y otras agencias gubernamentales locales.

El 1 de noviembre de 1995, aproximadamente 300 personas fueron al campamento-base del NSI. Querían negociar con el Sr. Suhanda, el gerente del sitio. Desgraciadamente, el Sr. Suhanda había ido al pueblo, y en los campamentos-base la gente se encontró con aproximadamente 30 integrantes del personal de seguridad. La gente quedó esperando a Suhanda en el patio delantero del campamento.

La muchedumbre se impacientaba. Los ancianos entonces ejecutaron una ceremonia ritual pidiendo fuerza para defender su tierra *adat* (tradicional). Aproximadamente a las 10, el Sr. Suhanda apareció a la localidad. Venía acompañado por el jefe del sub-distrito, el comandante militar y el comandante policial del sub-distrito. La muchedumbre entonces gritó a Suhanda, pidiéndole detener las actividades de la compañía. Al mismo tiempo las personas pidieron a Suhanda que firmara una declaración diciendo que él detendría las actividades del proyecto. Suhanda, bajo tal presión, escribió un memorándum y lo firmó. Las personas rechazaron el documento. Querían una declaración formal. Se detuvo el diálogo y Suhanda, oficiales y personal de seguridad, y el jefe del sub-distrito, abandonaron la localidad. La gente entonces quemó la cafetería de PT NSI.

Hoy, NSI abandonó la aldea de Belimbing, y la gente quemó toda la propiedad. Un informe oficial de la oficina provincial del Departamento de Silvicultura declaró, «Las actividades de PT Nityasa Idola están detenidas temporalmente», sin más explicación.

Los empurang dayak y el Proyecto HTI financiado por el Banco Asiático de Desarrollo

En noviembre de 1996, el Banco de Asiático de Desarrollo aprobó una concesión técnica de US\$ 330.000 al GOI para preparar un estudio de viabilidad de los proyectos HTI en Indonesia. El estudio fue realizado por Groome Poyry LT, de Nueva Zelanda y Finlandia, en cooperación con PT, Ifdeco Indonesia. El estudio recomendó, entre otras cosas, desarrollar un HTI de 12.000 hás. en el Distrito de Sanggau, Kalimantan Occidental. Para financiar el proyecto, el BAD entonces aprobó un préstamo a GOI (Préstamo No. 1000-INO: Proyecto de Desarrollo de Plantación de Madera).

Ya en 1990 PT Inhutani III (compañía de propiedad estatal) comenzó su actividades en dos sub-distritos: Jangkang y Mukok. A la larga, el proyecto se extenderá hasta cubrir una área de 300.000 hás. Esta parte pertenece a Gudang Garam en cooperación con la compañía finlandesa ENZO. En el año 2003, se construirá una planta de pulpa y de papel en Subah, cerca de la ribera del río Kapuas. Esto constituye una amenaza seria al ecosistema del río más largo de Indonesia.

Cuando la parte que es financiada por el BAD estaba por comenzar, el gobierno local e Inhutani III lanzaron un programa informativo para persuadir a las comunidades locales dayak de su participación. Como de costumbre, el equipo informativo prometió que el proyecto brindaría ventajas varias a los habitantes locales.

Prometieron que se compensaría con Rp 37.000 (US\$ 15) por cada hectárea de tierra que contribuyeran al proyecto. Las otras promesas eran clásicas: se crearían miles de trabajos, se proveerían servicios públicos: caminos, templos, secretarías aldeanas, y después de seis años el HTI podría recoger la madera y las personas obtendrían más dinero que nunca. Se dijo también que podían solicitar a Inhutani III cualquier cosa que quisieran. En septiembre de 1992 no se había cumplido ninguna de las promesas.

Inhutani III comenzó a construir una base operativa cerca de la aldea de Empurang sin informar a los lugareños. Estos entonces tomaron acción, prendiendo fuego a la base. La otra protesta fue

realizada por los habitantes de la aldea de Boyok porque la compañía no cumplió con sus promesas.

En un intento de persuadir a los habitantes a que aceptaran el proyecto, Inhutani III estableció un equipo de tareas. El equipo consta de funcionarios, el jefe de la aldea y varios lugareños. El deber principal del equipo es influir para que las personas entreguen sus tierras. Un registro hecho por una ONG local muestra que Inhutani paga incentivos mensuales a los miembros del equipo. La cantidad de los incentivos depende de la posición oficial de los miembros. El mismo registro también menciona que en Empurang, sólo el 35% de las familias todavía retienen sus tierras y las cultivan. El otro 65% ha perdido sus tierras y por eso no tienen más tierras cultivables.

En algunas aldeas las personas están volviendo a ocupar sus tierras. Este reocupación de la tierra se enfrenta a un problema serio. Inhutani ubica «funcionarios de seguridad» y los individuos no tienen el coraje de defender sus derechos territoriales.

Los tanimbar vs. Liem Sioe Liong

Liem Sioe Liong, el más poderoso millonario indonesio, a través de su compañía, PT. Alam Nusa Segar, está explotando una concesión maderera de 164.000 hás. en la isla Yamdena. Yamdena es el territorio indígena de los *tanimbar* uno de los pueblos indígenas de la provincia de Maluku. La lucha del pueblo tanimbar para preservar su bosque y su medio ambiente sigue todavía. Han conducido esta lucha durante varios años. El 14 de septiembre de 1992, una docena de tanimbar quemó la propiedad de la compañía y destruyó equipo de la misma. A continuación de la acción 30 personas fueron arrestadas durante varios meses.

Aparte de luchar por preservar el bosque del talado, los tanimbar de Yamdena luchan también por detener la deforestación por parte una compañía que se dedica a la plantación. Unas 30.000 hás. de la isla han sido puestas de lado para el establecimiento de la plantación por la compañía estatal PTP-45.

Re-ocupación de la tierra en el norte de Sumatra

En el norte de Sumatra, los *langkat malay* están tratando de volver a ocupar sus 250.000 hás. de tierra. La tierra pertenece históricamente a 15.000 familias *langkat malay*. En 1821 el gobierno colonial holandés se apropió de la tierra para establecer el proyecto de plantación, en el acuerdo de que se devolvería la tierra al pueblo

en 1953. El gobierno nacional de Indonesia no devolvió la tierra a los *langkat malay*. Intentando reivindicar su tierra, estos formaron «*Badan Perjuangan Rakyat Penunggu Indonesia*» (BPRI). En 1995 la autoridad local ofreció 10.000 hás. de tierra al BPRI. Por el momento, el BPRI parece estar de acuerdo con la oferta.

TIMOR ORIENTAL

Timor Oriental fue invadido por la vecina Indonesia el 7 de diciembre de 1975. Desde entonces, por lo menos 200.000 personas, casi un tercio de la población, han muerto como resultado de la guerra, la inanición y las enfermedades. Pero la anexión de Indonesia de la ex colonia portuguesa no ha sido nunca reconocida por las Naciones Unidas, y en el mismo Timor Oriental hay todavía resistencia contra la ocupación indonesia.

La responsabilidad del mundo occidental

El gobierno militar de Yakarta ha declarado a menudo que el movimiento indígena ha sido eliminado y que la lucha armada ya no existe. Pero en cada ocasión los acontecimientos han llevado a calificar a estas declaraciones como una expresión de deseos.

Para Indonesia la cuestión legal y política acerca de Timor Oriental fue solucionada en 1976, cuando la ex colonia portuguesa fue anexada como la 27ª provincia de Indonesia. Desde entonces, todos los acontecimientos de Timor Oriental han sido considerados como asuntos internos, de ningún interés para el resto del mundo. Según los generales de Yakarta. Pero el pueblo de Timor Oriental se niega a obedecer. Lucha contra la ocupación sangrienta e ilegal continúa en todas las formas posibles, tanto en el país como en el extranjero. A pesar de la fuerza aplastante de los indonesios, la resistencia continúa, más de veinte años después de la invasión. Una nueva generación de *timorese orientales*, que nunca ha experimentado otra cosa que la ocupación indonesia, está en la vanguardia, aunque todo parece estar en su contra.

La invasión de Indonesia de la ex colonia portuguesa fue un producto de la guerra fría. Se vio a Indonesia como un «baluarte» contra el comunismo en Asia. Por esta razón se permitió a los generales de Yakarta cometer un crimen detrás de otro, tanto en el país como en el extranjero. La guerra fría no existe desde hace ya mucho tiempo, pero ésto no ha tenido virtualmente ningún efecto

sobre el conflicto de Timor Oriental. Los generales de Yakarta siguen actuando como siempre. Sólo que ahora juegan una carta nueva, el crecimiento económico, que brinda al mundo occidental la oportunidad de hacer grandes ganancias.

Indonesia no habría podido ocupar Timor Oriental durante más de veinte años sin el apoyo político, económico y militar de los grandes poderes occidentales. Indonesia conduce su guerra con dinero y armas occidentales. Por lo tanto, los estados occidentales tienen una responsabilidad directa por la masacre de Timor Oriental. El apoyo occidental a la brutal dictadura militar de Indonesia es una vergüenza para naciones que alegan representar nobles principios como libertad, democracia y respeto por los derechos humanos.

Contradicciones religiosas

La Iglesia católica es un importante factor en Timor Oriental por razones históricas. Portugal envió misioneros a las colonias, y con el tiempo muchos timorese orientales se convirtieron a su fe. A continuación de la invasión de 1975, la iglesia se convirtió en la única organización legal no dominada por Yakarta. Ésto hizo que más personas se incorporaran porque era, y todavía es, la única manera legal de manifestar una protesta contra la ocupación indonesia. Indonesia fuerza a los timorese orientales a hablar la lengua indonesia. Pero la iglesia usa el *tetum*, el idioma dominante del territorio, demostrando así su solidaridad con el movimiento de la resistencia.

Carlos Felipe Ximenes Belo ha sido el obispo católico de la ex colonia portuguesa desde 1983. Es una de las pocas personas de este país que puede criticar abiertamente a los indonesios sin ser encarcelado o asesinado. Recientemente, el obispo ha advertido contra las crecientes contradicciones religiosas en el territorio. Cree que las autoridades indonesias promueven conscientemente este conflicto.

La mayoría de los timorese orientales son católicos, como se mencionó antes, mientras la mayoría de los indonesios son musulmanes. Más de 100.000 indonesios se han asentado en Timor Oriental desde la invasión. Ésta es parte de la política demográfica del gobierno, conocida como «*transmigrasi*», que apunta a trasladar gente de las áreas densamente pobladas, como Java a áreas escasamente pobladas en las islas más lejanas. En lo que respecta a Timor Oriental, el gobierno de Yakarta también tiene un plan para cambiar la composición demográfica de la población y muchos

timorese orientales temen llegar a ser una minoría en su propio país.

El Obispo Belo fue nominado para el Premio Nobel de la Paz en 1994 y 1995. Aunque no lo obtuvo, el mero hecho de ser nominado es una señal de que la cuestión de Timor Oriental se está haciendo más y más conocida en el resto del mundo.

La justicia mundial y la Brecha de Timor

El 30 el junio de 1995, la Corte Internacional de Justicia de la Haya, decidió -por 14 votos contra 2- que no podía pronunciarse sobre el caso de Portugal contra Australia en la disputa sobre la legalidad del Tratado de la Brecha de Timor.

Portugal había presentado un caso contra Australia acerca del tratado de 1989, que permite la exploración petrolera conjunta australiano-indonesia fuera de la costa de Timor Oriental, basándose en el hecho de que la ocupación de Indonesia es ilegal y nunca ha sido reconocida por las Naciones Unidas. Este veredicto fue una decepción para Portugal, para Timor Oriental y sus partidarios, pero según la Coalición Británica por Timor Oriental (BCET) no es para nada malo:

Primero, es necesario recordar que la «victoria» de Australia es algo completamente técnico. La corte concluyó que no se podía pronunciar sobre la parte de Australia en el tratado, sin una decisión relativa a la legalidad de la ocupación de Indonesia. La corte insiste que es incapaz de tomar esa decisión, pues Indonesia no reconoce la autoridad de la corte en ningún procedimiento, y que «no podía tomar tal determinación ... en ausencia del consentimiento [de Indonesia].» Lo que es más importante, la decisión de la corte contenía una sección enfatizando el derecho de Timor Oriental a la libre determinación, refiriendo específicamente a las resoluciones de las Naciones Unidas sobre la ocupación. Esta sección no era legalmente necesaria, lo cual sugiere que muchos de los jueces podrían haber fallado contra Australia, si sus reglas propias de procedimiento lo hubieran permitido.

Es irónico, dice BCET, que Indonesia puede ser eximida de juicio sobre la legalidad de sus acciones por negarse simplemente a reconocer la jurisdicción del Tribunal Internacional, pero este veredicto no es de ninguna manera una legitimación de la posición de Australia, ni sugiere que las perforaciones en la Brecha de Timor, según el tratado de 1989, sean de ninguna manera justificadas ni aceptables.

Prisioneros políticos en Indonesia

El 17 de agosto de 1995, las autoridades indonesias redujeron las sentencias de 26.000 prisioneros, incluyendo a Xanana Gusmão, el jefe del movimiento de la resistencia de Timor Oriental-CNRM. Esto se debió a la conmemoración del 50 aniversario de la independencia de Indonesia, proclamada al final de la Segunda Guerra Mundial, en 1945.

El Ministro de Justicia, Oetoyo Oesman, fue citado por periódicos por expresar que la reducción varió de tres meses a nueve meses cada una, dependiendo de la longitud del término de la sentencia. No obstante, se negó a contestar una pregunta sobre la reducción otorgada a Xanana Gusmão. Tampoco se mostró dispuesto a contestar una pregunta sobre cuántos prisioneros políticos se han visto beneficiados por la reducción, expresando sólo que se otorgaron reducciones a «la mayoría» de los 139 prisioneros políticos del país.

Xanana fue capturado en noviembre de 1992. En mayo de 1993 fue sentenciado por un tribunal indonesio a prisión perpetua por su papel como jefe de CNRM, pero tres meses más tarde el Presidente Suharto intervino y redujo la sentencia a 20 años.

En agosto de 1995, el número del total de prisioneros en Indonesia era de 29.397, y el 87% fueron incluidos en la reducción de las sentencias. El Ministro de Justicia, Oetoyo Oesman, también dijo que siete prisioneros, incluso dos prisioneros políticos sentenciados a muerte, pronto serían ejecutados. Pero se abstuvo de revelar sus nombres.

Cuando fue preguntado por periodistas si los prisioneros políticos a ser ejecutados eran el sargento mayor Bungkus y el coronel Latief Cakraningrat, quienes estuvieron involucrados en un infructuoso golpe de estado en 1965 y han estado en prisión durante casi 30 años, dijo: «es posible. Quizá.» (Otro informes indican que fue el sargento mayor Marsudi, no Latief, el seleccionado para una ejecución rápida).

Amnistía Internacional estimó en 1995 que Indonesia había ejecutado por lo menos 22 prisioneros políticos en la década previa. En la mayoría de los casos, la ejecución ocurrió después de que los prisioneros habían cumplido muchos años de prisión.

Una resolución sobre violaciones de derechos humanos

En 21 de septiembre de 1995, el Parlamento europeo adoptó una resolución sobre violaciones de derechos humanos en Indonesia y

Timor Oriental. El parlamento:

- «Condena en los términos más fuertes la opresión militar indonesia en Timor Oriental y expresa su simpatía por las víctimas y sus familias.»
- «Exige que los derechos fundamentales, incluyendo la libertad de cultos, sean respetados en Timor Oriental.»
- «Expresa su apoyo al pueblo de Timor Oriental en su lucha por el derecho a la libre determinación.»
- «Hace un llamado a la comunidad internacional y en particular a los Estados Miembros [de la Unión Europea], a exigir una detención inmediata de las ventas de armas y cualquier tipo de ayuda militar a Indonesia, y a suspender toda cooperación económica mientras Timor siga ocupado.»

La resolución también menciona la decisión reciente de las autoridades indonesias de implementar la sentencia de muerte impuesta a dos oficiales indonesios, el sargento mayor Bungkus y el sargento mayor Marsudi, ambos de 67 años de edad, quienes han estado detenidos desde 1965. El parlamento está sorprendido por esta decisión y pide al gobierno indonesio que anule la sentencia de muerte, que libere a todos los prisioneros políticos y conceda una amnistía a todos los 24 prisioneros todavía relacionados con los eventos de 1965. La redacción de esta resolución es sorprendentemente clara y fuerte, considerando que proviene de una rama de la Unión Europea. Desgraciadamente, tiene pocas probabilidades de ser implementada. El poder decisivo de la Unión Europea reside en la Comisión y el Consejo de Ministros, y éstos no tienen planes de interrumpir el rentable contacto con Indonesia. Los derechos humanos son importantes, pero los intereses económicos parecen ser aún más importantes.

Nuevas perturbaciones en Timor Oriental

En septiembre de 1995 estallaron disturbios en Maliana, sede de una prisión donde un oficial hizo comentarios anti-católicos. Los disturbios se extendieron rápidamente por todo el país. Algunos hogares musulmanes, vehículos y negocios pertenecientes a inmigrantes indonesios fueron quemados, así como también una mezquita. También estallaron manifestaciones en otros lugares (en la capital Dili y en Viqueque). Poco después, fue incendiado el Mer-



Los krio dayak del subdistrito de Sandai, incendiando el campo base de la plantación industrial de árboles con el objetivo de preservar sus bosques y tierras ancestrales, Indonesia. Foto: Stepanus Djuweng

cado Comorro en Dili. En el mes siguiente, estallaron disturbios en Dili cuando grupos de jóvenes obstruyeron varias partes de la ciudad, a continuación de enfrentamientos con timorenes integracionistas. Se dijo que la policía disparó indiscriminadamente contra la muchedumbre, allanó domicilios, y aterrorizó en forma general a la gente. Según el comandante policial local, por lo menos dos personas resultaron muertas, 20 heridas y más de 200 fueron detenidas temporariamente. Los allanamientos casa por casa, en busca de participantes en los disturbios, continuaron hasta entrado el mes de noviembre. Muchos de los detenidos y liberados informaron haber sido torturados. Un vídeo, más tarde contrabandeado fuera de Timor Oriental, mostró víctimas de tortura, incluso algunos entre los recientemente detenidos. Se dijo que han huido de la ciudad otras personas, principalmente jóvenes, que temen por su seguridad. Según Amnistía Internacional, «fuentes independientes alegan que el ejército provocó los disturbios de septiembre y el subsecuente motín en Dili en octubre, mediante el uso de agentes provocadores.»

Veinte años de ocupación

El 7 de diciembre de 1995, un grupo de 115 timorenes orientales organizaron una «sentada» en las embajadas rusa y holandesa en Yakarta, para marcar el 20 aniversario de la invasión indonesia. Pero manifestantes pro-indonesios atacaron la embajada holandesa y golpearon a varias personas, incluso al embajador, Sr. Brouwer, en la cabeza con palos.

Más tarde, tropas indonesias anti-disturbios entraron a la embajada, después de lo cual los timorenes orientales abandonaron el lugar. Su destino es incierto, pero uno de ellos, de nombre Putu, dijo a AFP, la agencia informativa francesa, que él y otros 54 habían sido detenidos y «pateados, golpeados y quemados con cigarrillos» durante 24 horas de interrogatorios policiales.

«El asilo es la única esperanza para nosotros», expresó Putu, agregando: «no nos sentimos seguros, y estamos todavía perseguidos por las autoridades.»

LAS FILIPINAS

Aunque la situación de los pueblos indígenas de las Filipinas sigue siendo tan precaria y tan mala como siempre, 1995 fue un año decisivo en lo que se refiere al proceso organizativo. Los líderes de los pueblos indígenas y las organizaciones populares sacaron el mejor partido de las condiciones existentes y llevaron hasta el máximo cualquier oportunidad para afirmar sus derechos. El año marcó también la emergencia de grupos espontáneos, no conducidos por movimientos alternativos o centros político-ideológicos. Estos grupos se organizaron principalmente en base a la defensa de sus territorios ancestrales y para afirmar su identidad.

Conflicto armado

La violencia, particularmente la violencia contra comunidades indígenas ha sido siempre un rasgo regular de la mayoría de los gobiernos del país. Las comunidades indígenas, los grupos islámicos *moro* y los pueblos agricultores de la montaña han sido usualmente las víctimas de la guerra y los conflictos armados que asolan el interior del país. Así, cuando empezaron las conversaciones de paz entre el gobierno y todas las otras facciones beligerantes, la mayoría de los filipinos tenía la esperanza de ver el fin de décadas de guerra y el comienzo de la paz.

El Gobierno de la República de las Filipinas concluyó un acuerdo de paz con el RAM, o sea los rebeldes del ala derecha del

ejército, el año pasado. Sin embargo, las conversaciones separadas con el MNLF (Frente Nacional de Liberación Moro)¹ y el Partido Comunista Filipino- Nuevo Ejército del Pueblo todavía están trabadas por problemas técnicos.

Las facciones moro, como el MILF, no se han incorporado a las conversaciones de paz pero están dispuestas a cumplir con los acuerdos que pueda lograr el MNLF. No obstante, continúan las escaramuzas entre los rebeldes del MILF y el ejército.

En 1996 han ocurrido bombardeos de iglesias cristianas en Zamboanga y fueron arrasados pueblos en áreas musulmanas de Cotabato o cerca de comunidades musulmanas. El ejército es rápido en culpar a los rebeldes moro. Pero todo el mundo está de acuerdo que estos actos crean un clima de odio entre diferentes grupos religiosos. Son perpetrados para incitar otra guerra musulmano-cristiana similar a la de los años 70.

Se ha informado que el MILF recluta a indígenas no-musulmanes. Informes del área *t'boli*, en Cotabato del Sur, indican un activo reclutamiento de *t'boli b'laan* por el MILF en lo que se conoce como la campaña «Balik-Islam» (Retorno al Islam).

La mayoría de las comunidades musulmanas y cristianas afectadas están cansadas de la guerra y quieren vivir en paz. No quieren una repetición de las terribles condiciones del pasado. El movimiento por la paz crece, particularmente en Mindanao. Se caracteriza por la inclusión de miembros que provienen de todos los pueblos, religiones y sectores de la isla.

Militarización

Las operaciones militares a gran escala, tal como se vieron durante el régimen de Marcos y hasta cierto punto durante el gobierno de Aquino, no fueron tan evidentes durante el año último. Grupos de derechos humanos, críticos del régimen de Ramos, concedieron que éste ha perfeccionado el «enfoque suave» en las operaciones de contra-insurgencia. Sin embargo, las violaciones de los derechos humanos, sobre todo en áreas interiores, ocurre como algo rutinario durante las operaciones militares contra los rebeldes.

En Luzón del Norte los planes para la Represa de Abulug-Gened en Apayao, lugar «bajo influencia rebelde», fueron lanzados con el despliegue de 2 batallones del Ejército de las Filipinas y la reactivación y expansión de la organización paramilitar, Unidades Geográficas Civiles de las Fuerzas Armadas (CAFGU). Se ha etiquetado al CAFGU como la rama militar responsable de la mayoría de los

casos documentados de abusos de los derechos humanos.

Del 18 al 19 de agosto, unidades de la Brigada 401 del ejército (miembros del 58 Batallón del Ejército de las Filipinas) bombardearon a los pueblos de Balalaan, en el barangay² San Juan, Bayugan, Agusan del Sur, en el noreste de Mindanao. Los bombardeos fueron realizados por aviones de guerra, helicópteros y fuego de artillería de obuses. Ocho *manobos* incluyendo niños, fueron hallados muertos al final de los bombardeos. El ejército tenía sospechas de que el pueblo estaba bajo «influencia rebelde». Cuatro niños que resultaron heridos y además quedaron huérfanos a causa de los incidentes, fueron raptados y detenidos por el ejército. El resto de los residentes, unas 90 familias, huyeron en busca de seguridad. El ejército trató de encubrir el incidente. Alegaron que la destrucción fue accidental y que los niños que apresaron eran los niños de soldados. Para impedir a la gente presentar demandas judiciales, se les dio alguna ayuda médica y dinero en efectivo. Se hizo un acuerdo por el cual las personas se vieron forzadas a aceptar alrededor de P66.000 pesos en concepto de daños y perjuicios. Fue un mal negocio para la comunidad. La mayoría de los lumad³ de las áreas circundantes que oyeron acerca de esto, lloraron de rabia.

Otro caso a destacar es la evacuación de 32 familias *banwaon* y *talaandig* en los pueblos de La Paz y San Luis, en Agusan del Sur. Sus pueblos fueron bombardeados del 12 al 16 de septiembre de 1995. Se dejó caer un promedio de 4 bombas diarias en un operativo que, según el ejército, tenía como objetivo expulsar a las guerrillas del Nuevo Ejército del Pueblo. Sin embargo, el operativo coincidió con la decisión de una compañía maderera de retomar las actividades en esta área.

En Surigao del Sur, 11 *barangay* en 4 pueblos fueron objeto de bombardeos aéreos y operativos terrestres del 11 de agosto al 2 de septiembre de 1995 por los Batallones 29 y 67 del Ejército de las Filipinas. Acompañados de «bloqueos de alimentos», la serie de operativos causaron estragos a más de 147 familias *manobo*, las cuales fueron forzadas a trasladarse a otros lugares. Un joven *manobo* fue muerto bajo sospechas de ser un simpatizante del Nuevo Ejército del Pueblo. Se alegó que los bombardeos eran parte de operativos de contra-insurgencia, pero residentes locales informaron sobre la aceleración de las actividades madereras después de las ofensivas militares. Antes, las comunidades indígenas de Tandag, Lanuza y San Miguel habían presentado reivindicaciones a sus territorios ancestrales. Los concesionarios madereros de la provincia habían registrado su oposición a las demandas.

En Capiz, Isla de Panay, la 3a. División de Infantería del Ejército de las Filipinas ordenó a los residentes indígenas *sulod* abandonar sus barangays. La unidad de operaciones Psicológicas de la 3a División de Infantería del Ejército de las Filipinas recién había llegado a sus poblados. Los funcionarios del barangay fueron llamados de apuro y se anunció que su área sería sometida a fuego de artillería y bombardeos. Se mandó evacuar a las personas sin ninguna garantía de que podrían volver después de los ejercicios militares.

El comandante del Ejército, Gen. José Lapuz, negó la existencia de los *sulod* como pueblo indígena y los llamó colonos. Los ejercicios militares incluyeron el bombardeo de Mte. Pula en marzo de 1995, lo cual dio por resultado el miedo y el pánico entre los indígenas del límite entre Tapaz y Jamindan, causando la evacuación de 188 familias en tres días.

Sin embargo, no todos los conflictos armados tuvieron por resultado la derrota o la evacuación de las personas. El área de Lantad en Balingasag, Misamis Oriental, ha sido un semillero de actividades rebeldes desde la década de 1980. Muchos de sus jóvenes se incorporaron a los rebeldes del Nuevo Ejército del Pueblo, integrando las unidades del «Pulang Bagani» (Guerreros Rojos). A causa de esto, se realizaron repetidos operativos militares contra el pueblo. Varias veces la gente se vio obligada a evacuar sus hogares. La mayoría de los residentes habían vuelto al área hacia tres años después de haberla abandonado. A su retorno, el ejército trató de controlar el área, estacionando, en forma permanente, personal especializado en guerra psicológica.

Este año, en marzo de 1996, los *higaonon datus* del área de Misamis celebraron un «*dumalundong*» o una reunión de jefes indígenas y sus guerreros. Desde el comienzo, el ejército trató de sobornar la reunión y controlar los ritos, ofreciendo financiar y dar comida para el «*dumalundong*». El Nuevo Ejército del Pueblo también trató de intervenir y establecer el programa. Aunque las tensiones son grandes a causa del incidente, esto mostró cómo los *higaonon* de Lantad han llegado a ser más independientes y asertivos. En realidad dijeron al ejército que no interfiriera y criticaron al Nuevo Ejército del Pueblo acerca de sus métodos.

Represas

La intrusión gubernamental y corporativa en los territorios ancestrales de los pueblos indígenas no disminuye. Bajo el lema de Filipinas 2000, el gobierno de Ramos sigue permitiendo los proyec-

tos pilotos de desarrollo e inversiones en áreas de pueblos indígenas.

El gobierno construirá dos represas en Luzón del Norte, en medio de protestas y resistencia por parte de los grupos indígenas.

Una de éstas es el P 10.6 B *Proyecto Energético y de Irrigación de Propósito Múltiple de Casecnan* (CMIPP), en Nueva Vizcaya. Este proyecto implica un plan BOT¹ que instalará un túnel de montaña de 25 km. de Nueva Vizcaya a Nueva Ecija. El área está en el territorio ancestral de los indígenas *bugkalot*. Se construirá una planta hidroeléctrica en el subsuelo, la cual generará 140 megawatts para alimentar a la red eléctrica de Luzón. Cuando el proyecto esté finalizado se espera irrigar 50.000 hectáreas de tierras de cultivo en Pampanga, Nueva Ecija, Tarlac y Bulacan pero no en las áreas dónde el proyecto afectará en mayor medida. El presidente Ramos ha prometido que nadie será desplazado por el proyecto. Sin embargo, los opositores han solicitado una detención inmediata del proyecto. Muchos de los opositores son *cordilleras* quienes se han establecido en la provincia en los años 50, después de haber sido desplazados por proyectos hidroeléctricos gubernamentales anteriores.

El DENR (Departamento de Medio Ambiente y Recursos Naturales), por su parte, emite CADCs (Certificado de Reivindicación de Territorio Ancestral) a diestra y siniestra, a un ritmo creciente. Esto es para que la población se sienta más cómoda con el proyecto. Creen que la emisión de CADCs asegurará a las personas que sus derechos a sus territorios ancestrales son una prioridad del régimen de Ramos.

Entretanto, en la Cordillera, en el límite de Benguet Pangasinan, los *ibaloí* están en armas contra el planeado *Proyecto de Represa de Propósito Múltiple San Roque P 22 B*. Es uno de los proyectos energéticos pilotos del gobierno. Embalsará el poderoso río Agno y se proyecta que irrigará 70.000 hectáreas de tierra. La planta hidroeléctrica de 365 megawatts será construida en el barangay de San Roque que está situado en el límite entre dos provincias.

La Corporación de Energía Nacional (NAPOCOR) piensa declarar 49.000 has. de las 49.800 hectáreas de área total de la municipalidad de Itogon, como cuenca de la represa. Esto afectará a los barangays de Itogon, como Gumatdang, Loacan, Poblacion, Tuding, Ucab y Virac.

El Acuerdo de Manejo Forestal Industrial

El Acuerdo de Manejo Forestal Industrial, IFMA, promovido por el DENR, otorga teóricamente un proyecto de reforestación a

cualquier organismo empresarial del sector privado. Éstos pueden ser organizaciones populares y comunidades. Pero en general, la mayoría de los solicitantes y la generalidad de los otorgamientos de IFMAs, sobre todo en Mindanao, van a corporaciones y hombres de negocios poderosos.

Los lumad de Mindanao continúan denunciando el favoritismo del DENR por las grandes empresas, al contrario de lo que sucede con los pueblos indígenas. A pesar de las diferencias en tácticas y estrategias para defender sus territorios ancestrales, varios lumad de Mindanao han comenzado a delimitar y registrar sus territorios ancestrales, haciendo valer la Orden Administrativa Departamental No. 2 del DENR (DAO 2)^o que autoriza la emisión de CADCs. Si bien siguen el proceso del DENR, los lumad se quejan de que el DENR es lento en la emisión de CADCs mientras que se muestra rápido en la emisión de IFMAs a las corporaciones.

En 1994 y durante todo el 1995, las ONGs descubrieron que el anterior secretario del DENR otorgó a una corporación extranjera más de 6.000 hectáreas del *Parque Nacional del Pantano de Agusan* en Bunawan, Agusan del Sur, a la corporación de desarrollo taiwanesa «Forever Fertility» como un IFMA. La mencionada corporación va a plantar bambú comestible en el área y brotes de bambú para ser procesado y enlatado para la exportación. La plantación de las especies exóticas de bambú exige el corte de la vegetación indígena del área. El Pantano de Agusan es el único pantano de turba en las Filipinas; el único en su género.

El DENR de la nueva región de Caraga (de la cual la provincia de Agusan del Sur forma parte) tiene una reputación notoria de corrupción y su favorecimiento de los grandes empresarios y madereros es legendario. Este febrero, miembros de una organización popular manobo levantaron barricadas frente a la oficina regional del DENR en Prosperidad, Agusan del Sur para protestar contra la lentitud del DENR en el procesamiento de su demandas de CADC mientras que facilitaba a un conocido empresario chino la obtención de un IFMA en la ciudad de Butuan.

En el sur de Mindanao Central, una Misión Investigadora fue al área de Kalamansig en Sultan Kudarat, en Cotabato, el pasado septiembre de 1995. Aquí, se otorgó un IFMA de 11.000 has. al prominente Sr. Victor Consunji. El IFMA ha privado al pueblo manobo de sus territorios ancestrales. Los residentes se han quejado por la vigilancia molesta y las amenazas de los guardias de

seguridad de Consunji. Hombres armados recorren el área y les prohíben plantar sus cosechas.

ALSONs (Alcantara e Hijos) tomó y transformó más de 13.000 has. de tierra agrícola de primera en el territorio *ata-manobo*, en plantaciones de *falcatta* y *acacia mangium*. Las cosechas y árboles frutales del pueblo fueron cortados por la fuerza y sin consultas. Se prohibió para siempre a los *ata manobo* plantar dentro del área. En 1994, funcionarios de la compañía amenazaron a la gente con violencia. Dijeron que bombardearían sus comunidades y matarían a sus jefes. Patrullas del ejército, apoyadas por unidades regulares del ejército, reforzaron la presión sobre las aldeas.

A comienzos de 1995, se impidió entrar a una misión investigadora a las comunidades en el pueblo de Talaingod, en la provincia de Davao del Norte. El área era parte de las 13.000 has. IFMA concedidas a ALSONs. Los *manobo talaingod* habían emboscado a algunos empleados de ALSONs después de que declararon un «*pangayao*» o guerra tribal, contra la compañía. El «*pangayao*» se declaró para afirmar sus demandas ancestrales en oposición al apoderamiento de ALSONs de su área.

Minería

Las compañías mineras extranjeras están ahora por toda Filipinas, alentadas por la aprobación de la Ley de Minería de 1995 que les ofrece incentivos muy generosos para la exploración y explotación mineral. Entre éstas se encuentra la Corporación Minera Occidental de Australia.

Los *b'laan* del sur de Cotabato han acusado a la Corporación Minera Occidental de complotar con el gobierno para apoderarse de su territorios ancestrales cercanos al Mte. Matutum. Las ONGs y las organizaciones populares dicen que el «holocausto medioambiental y social que causaría la operación es irreversible y causaría un daño permanente».

A la Corporación Minera Occidental de Filipinas o WMCP, le fue concedido un FTAA (Acuerdo de Asistencia Técnica Extranjera) por la Ley de Minería de 1995. Este acuerdo le otorga a la compañía el derecho a la exploración en gran escala, desarrollo y utilización de minerales por un período de 25 a 50 años de un área de tierra de un total de 99.400 hectáreas, que cubre los límites de Cotabato del Sur, Sarangani, Sultan Kudarat, Davao del Sur y Cotabato del Norte.

El Acuerdo de Asistencia Técnica Extranjera, junto con el acuerdo optativo con el Grupo de Compañías Tampakan, otorga prácticamente a la minería Occidental un total de 109.400 has. de tierra para la exploración y explotación. También tiene 3 Acuerdos de Asistencia Técnica Extranjera pendientes en áreas contiguas a su área actual, los cuales cubrirán aproximadamente 400.000 hectáreas.

WCMP ha presentado un paquete de beneficios como parte del componente de la aceptabilidad social de la compañía. Críticos b'laan dicen que ésto no es nada más que promesas para lograr que los b'laan acepten a la compañía.

La aprobación de la Ley de Minería ha creado también un exceso de solicitudes de concesiones mineras por todo el país, sobre todo en la península de Zamboanga y en la Cordillera. Entre éstas se encuentra la de New Crest Exploration Filipinas Inc. (NEPI) cuyo Acuerdo de Asistencia técnica Extranjera (FTAA) abarca 13 municipalidades en Abra además de áreas en las provincias vecinas de Kalinga, Provincia Montañesa y Benguet. El Comité Provincial Multisectorial de Protección Forestal ha alegado ya que las actividades del grupo minero causarían una degradación medioambiental en la provincia, sobre todo en las cuencas vitales.

La Ley de Minería

Lo que verdaderamente mortificó a los pueblos indígenas en 1995 fue la aprobación de la Ley de la República No. 7942 también conocida como la Ley de Minería de Filipinas de 1995. Aprobada el pasado 3 de marzo de 1995, otorga casi un permiso en blanco a las compañías mineras extranjeras para apoderarse de tierras mineras en los territorios ancestrales de los pueblos indígenas. Las comunidades indígenas se ofendieron verdaderamente cuando el Congreso aprobó esta ley en un tiempo muy corto. Ésto debe ser comprendido en el contexto de casi 10 años de cabildeos por parte de las organizaciones indígenas por una Ley de Territorio Ancestral. Los pueblos indígenas trabajaron duramente para lograr la aprobación de la entonces Ley 595, también conocida como la Ley Andolana. Sólo para que fuera archivada en la tercera lectura por el mismo Congreso que aprobó la Ley de Minería.

La Ley también da una oportunidad a las corporaciones 100% extranjeras para dedicarse a la empresa minera bajo la aprobación del presidente. Alienta a las corporaciones transnacionales a apoderarse lentamente de corporaciones filipinas ya establecidas, principalmente a causa de su ventaja en lo que respecta a tecnología

avanzada y capitales. Además, las previsiones de la Ley sobre la madera, el agua, el dominio eminente, y los derechos de servidumbre, violan claramente los derechos de los pueblos indígenas. La aprobación de la Ley provocó reacciones muy fuertes de parte de las organizaciones de pueblos indígenas, sobre todo los grupos vinculados con la Alianza de Pueblos de la Cordillera (CPA), que tiene organizaciones populares mineras a pequeña escala como miembros de la federación.

Las Leyes del Terror

Después de las elecciones de 1995 y las maniobras políticas de la elite de partidos políticos, 1996 contempló lo que pareció ser una consolidación de las fuerzas políticas de Ramos dentro de la estructura política dominante. Dos legisladores, el ex «arquitecto de la Ley Marcial» y único sobreviviente de la rebelión militar que precipitó la caída de la dictadura de Marcos en 1986, el Senador Enrile y el anterior mensajero de Marcos, el Diputado Roilo Golez, introdujeron lo que ahora se llaman las Leyes del Terror. La propuesta legislación se diseñó supuestamente para refrenar el terrorismo, sobre todo debido a la cantidad de bombardeos y ataques terroristas en Metro-Manila y en Mindanao. Grupos por las libertades civiles y ONGs consideraron a las leyes como un ataque intencional a las libertades civiles y un paso hacia la Ley Marcial.

Grupos diferentes, incluyendo a organizaciones de pueblos indígenas y ONGs de defensa de los pueblos indígenas, movilizaron a sus miembros contra la aprobación de las Leyes del Terror. La presión pareció lo bastante fuerte como para hacer que el Presidente de la Cámara de Representantes, un aliado muy fiable de Ramos, renunciara a apoyar las leyes del terror que Malacanang había juzgado urgentes.

Las protestas mostraron que todavía existe una masa crítica de filipinos politizados que están vigilantes contra el autoritarismo. Pero algunos analistas piensan que no hay ninguna necesidad de que Ramos realmente declare la ley Marcial para consolidar el poder. Ellos observan que un «golpe solapado» ya está ocurriendo con el nombramiento de ex-generales y funcionarios militares retirados a importantes posiciones ministeriales y administrativas.

Consultas sobre la Agenda Legislativa de los Pueblos Indígenas

En 1995, Ramos nombró a 2 representantes sectoriales por los pueblos indígenas para el Congreso. Un *teduray*, de Mindanao vinculado con el OSCC (Oficina para las Comunidades Culturales

del Sur)⁴ y TRICAP (Asociación de Comunidades Tribales de las Filipinas)⁵ gubernamentales y un *ifugao* de la Cordillera vinculado con el movimiento por la paz.

Con la ayuda de un consorcio de ONGs, el último logró financiación para 6 consultaciones regionales y una consultación nacional sobre la agenda legislativa de los pueblos indígenas de la Oficina del Ayudante Presidencial para el Proceso de Paz (OPAPP). La meta de las consultaciones era presentar al Congreso un Proyecto de Ley de Territorios Ancestrales. El consorcio fue por todo el país para asegurar una consultación de amplia base. Las reacciones iniciales de los pueblos indígenas, organizaciones populares y ONGs fueron de escepticismo a causa de los antecedentes del Congreso. En todo caso, la mayoría de las organizaciones populares le dieron una oportunidad. Los acuerdos generales para los aspectos no negociables que cualquier legislación sobre territorios ancestrales debe contener son los siguientes:

1. La ley debe dar pleno reconocimiento al derecho de los pueblos indígenas a la propiedad y manejo de los territorios ancestrales;
2. debe respetar la cultura indígena, el sistema de justicia, los conceptos de propiedad, uso de la tierra y utilización de recursos;
3. debe contener previsiones especiales que tengan en cuenta las condiciones diferentes relativas a la posesión de territorios y el grado de preservación de la cultura indígena (algunas comunidades indígenas gozan de territorio y cultura intactos, mientras otros están dispersos y su cultura está amenazada);
4. los pueblos indígenas deben identificar y delimitar sus territorios ancestrales por su cuenta;
5. el gobierno debe proveer Fondos Suficientes para que la ley tenga un pleno efecto; y,
6. debe impedir al gobierno y a los grupos privados de interés seguir usurpando los territorios de pueblos indígenas.

Los participantes estuvieron de acuerdo que los aspectos antes mencionados servían como bases iniciales de unidad entre las ONGs en procura de un trabajo de defensa legislativa. Las ONGs se comprometieron igualmente a fortalecer su unidad mediante consultaciones regulares y otros intercambios de importancia.

La Consultación nacional se celebró en Pagsanjan, Laguna, del 15-17 diciembre de 1995. Los participantes estuvieron de acuerdo en un proyecto de ley. El proyecto de ley contiene todos los aspectos positivos de leyes previas sobre territorios ancestrales archivadas en el Congreso y especialmente todos los puntos acordados en todas las consultaciones regionales por todo los pueblos indígenas participantes.

Como los representantes sectoriales de los pueblos indígenas no han sido confirmados todavía por la Comisión de Nombramientos, no pueden presentar este proyecto de ley. Así, en 1996, el proyecto de ley fue pulido por un comité de redacción y presentado al Sen. Flavio, quien probablemente lo patrocine. El Diputado Andalana ha leído también el Proyecto y reconoce algunos de sus rasgos mejores. Ha prometido seguir estudiándolo.

La propuesta original de proyecto de ley era una ley de territorios ancestrales por la que el estado reconocería el «título nativo» de los pueblos indígenas. Sin embargo, el consenso entre los participantes indígenas era sobre un proyecto de ley que incluyera todo los otros intereses de los pueblos indígenas, tales como las tierras ancestrales, los derechos humanos, la discriminación, la preservación de la cultura y una agencia de pueblos indígenas cuya preocupación principal fueran los pueblos indígenas, los territorios ancestrales y los derechos indígenas.

Los pueblos indígenas ven al proyecto de ley como un logro de importancia y están muy orgullosos del mismo. Son muy conscientes de que el Congreso lo reducirá, lo archivará y lo cortará en pedazos. Pero las organizaciones de pueblos indígenas ya se están preparando para el próximo paso que es cabildear en el Congreso. Para muchas de las organizaciones de pueblos indígenas que se vieron implicadas en las consultaciones, lo más importante fue que las consultaciones les brindaron muchas oportunidades para compartir experiencias entre las tribus, vincularse y consolidar sus organizaciones.

Esfuerzos organizativos

Los años pasados han visto una tendencia decepcionante hacia el debilitamiento y fraccionamiento de las organizaciones de pueblos indígenas, particularmente las federaciones nacionales y regionales. Estas divisiones han sido acompañadas por recriminaciones mutuas y calumnias de ambos lados.

Las disensiones en las filas de los pueblos indígenas se deben también a las divisiones en el movimiento democrático nacional

conducido por el Partido Comunista de las Filipinas, el cual durante mucho tiempo fue la fuerza principal del cambio, incluso en las organizaciones de pueblos indígenas y federaciones. La división aparejó fenómenos similares reflejos en las ONGs, las organizaciones y federaciones de pueblos indígenas. Si bien es decepcionante, ésto ha llevado a muchos líderes y miembros indígenas a repensar y contemplar seriamente su alianza con los llamados movimientos de masa alternativos y grupos políticos de base ideológica. Los grupos regionales y locales enfrentan cada vez más desafíos por cuenta propia. Además, nuevas organizaciones crecen espontáneamente y organizaciones viejas reviven o se regeneran a lo largo de líneas más independientes y más indígenas.

La Alianza de Pueblos de la Cordillera, en la Cordillera, ha logrado recobrarse de los problemas organizativos que había enfrentado en años anteriores. Los líderes y organizadores han tomado una posición firme y radical con respecto a las cuestiones indígenas pero han mantenido la apertura, la flexibilidad y la elasticidad con respecto a otras fuerzas. Por ejemplo la Alianza de Pueblos de la Cordillera todavía lidera a las otras federaciones de organizaciones de pueblos indígenas por su capacidad para lograr el apoyo internacional y su experiencia en lo que se refiere a contactos internacionales. La Alianza de Pueblos de la Cordillera rechaza cualquier forma de delimitación de reivindicaciones específicas de territorios ancestrales en la Cordillera, alegando que la Cordillera entera es el territorio ancestral de los pueblos de la Cordillera. Por lo tanto, se han concentrado en el trabajo por una genuina autonomía regional y libre determinación para los pueblos de la Cordillera.

La dirección de los *Iumad mindanao*, se ha separado de la federación nacional, KAMP, en una atmósfera de recriminaciones mutuas. Intentan ahora un retorno en silencio. Organizan silenciosamente y experimentan «nuevas» formas de organización. En lugar de construir una federación con organizaciones populares creada en base a áreas político-regionales de trabajo pasadas, los líderes y organizadores se concentran en la organización por tribu y afiliación etno-lingüística. Ésto, dicen, refleja mejor y respeta sus sistemas de parentesco indígenas y las estructuras socio-políticas nativas.

En diciembre de 1994, se creó el *Pambansang Lupon ng mga nakatatanda sa Tribu* (Concejo Nacional de Ancianos Tribales) o PLANT, una federación nacional de organizaciones. La mayoría de las organizaciones miembros de PLANT estaban vinculadas a una ONG paralegal. Los líderes de las organizaciones crearon inicialmente

la organización para aprovechar mejor a sus ONG asociadas.

En 1996 el grupo apareció con un programa de acción orientado principalmente hacia la educación de sus organizaciones y la defensa de sus territorios ancestrales. Habiendo aprendido sus lecciones de los movimientos políticos gubernamentales y alternativos, el grupo es muy cauto con sus declaraciones y acciones. Se esfuerza por señalar que la mayoría de sus organizaciones pertenecen a diferentes redes de trabajo, por lo que no tiene intención de competir, y preferiría coordinar con otras federaciones nacionales de organizaciones, por ejemplo, KAMP.

En Cagayan de Oro, fue creado un Concejo provisional de líderes de pueblos indígenas, uniendo a líderes *higaanon*, *subanen*, *manobo*, *bukidnon*, y *talaandig*. El Concejo fue creado como resultado de un encuentro, por primera vez, de varios líderes de pueblos indígenas de Mindanao del Norte, durante las consultaciones de la Agenda Legislativa de los pueblos indígenas. A pesar de las diferencias en experiencia, redes y afiliaciones, el Concejo Ad Hoc creyó que era hora de disponer de un mecanismo para coordinar los esfuerzos de los pueblos indígenas para defender sus territorios ancestrales. El Concejo Ad Hoc es considerado sólo como un mecanismo temporario y un punto focal para las actividades de los líderes indígenas y ancianos de la sub-región.

Una cuestión muy debatida entre los pueblos indígenas y las ONGs que trabajan por los pueblos indígenas es la delimitación y registro de reivindicaciones de territorios ancestrales. Un número creciente de organizaciones de pueblos indígenas están delimitando sus reivindicaciones de territorios ancestrales a través del proceso estipulado en el DAO 2 del DENR. El proceso establece el registro y la delimitación de las reivindicaciones de territorios ancestrales y la presentación de prueba de ocupación, etc., antes de la emisión de un Certificado de Reivindicación de Territorio Ancestral (CADC).

KAMP, la Alianza de Pueblos de la Cordillera y organizaciones populares radicales afiliadas a movimientos alternativos, rechazan el programa de DENR, expresando que no hay nada para ganar de un Certificado de Reivindicación de Territorio Ancestral cuando sólo divide a la gente. En muchas áreas de pueblos indígenas, inescrupulosos funcionarios del gobierno local y algunos líderes indígenas solicitan Certificado de Reivindicación de Territorio Ancestral sólo para pasar la tierra a inversores. A veces tribus o grupos más grandes y más poderosos presentan incluso reivindicaciones sobre los territorios ancestrales de tribus vecinas más débiles. Ade-

más, el Certificado de Reivindicación de Territorio Ancestral es nada más que un certificado de reivindicación. No es un título.

Mientras que las organizaciones de pueblos indígenas que se han acogido a la delimitación de los procesos DAO 2 expresan también la existencia de algunas ventajas, todos están de acuerdo con las críticas contra DAO 2.

Pero las organizaciones de pueblos indígenas más exitosas que lograron Certificados de Reivindicación de Territorio Ancestral se lanzaron a los procesos DAO 2 con los ojos abiertos. Conocían las trampas. Dicen que después de todo es una opción de cada comunidad indígena el delimitar por sí misma o acogerse al proceso gubernamental. El derecho a la libre determinación es todavía el principio fundamental. La solicitud de Certificados de Reivindicación de Territorio Ancestral no se debe criticar como si quienes lo solicitaran se vendieran al gobierno.

Lo que las organizaciones vislumbraron realmente fue el potencial organizativo, educativo y movilizador del proceso de cartografiado, por parte de la comunidad, de las reivindicaciones de territorios ancestrales. Transformaron el cartografiado comunitario en una experiencia ilustrativa para la comunidad entera. En lugar de limitar la delimitación a los líderes y el personal técnico, los líderes de las organizaciones populares hicieron participar a la comunidad entera. Evocaron los relatos épicos y leyendas que mostraban que sus antepasados realmente ocuparon y vivieron en partes específicas de su territorio en épocas diferentes. Evocaron una vez más, las historias de sus luchas a sus niños, quienes habían olvidado los viejos relatos; sus raíces. El proceso ha llegado a ser una oportunidad para obtener consciencia de su identidad.

El pueblo también aprendió a enfrentar al gobierno, a los funcionarios del gobierno local, al DENR y a los congresales. Cada compromiso aumenta la experiencia política del pueblo. Y los líderes aprenden siempre y resumen al pueblo lo que aprenden.

NAGALAND (PAÍS NAGA)

Gobierno militar en Nagaland¹

Al igual que en los últimos años, durante todo el año 1995 la India impuso la Ley de «área de disturbios» en la mayoría de las áreas

1. Nagaland significa toda la tierra ancestral de los naga, incluyendo el estado de Nagaland.

naga de la India. Cualquier lugar declarado «área de disturbios» queda sometido a la Autoridad Militar y todos los derechos fundamentales y civiles son suspendidos automáticamente. Los efectivos militares hasta el rango de 3 galones, tienen el poder de «disparar o usar la fuerza, incluso hasta causar la muerte» contra cualquier persona/s que actúe en contravención de cualquier ley u orden vigente en el área de disturbios. El derecho de reunión está prohibido y no se pueden reunir cinco o más personas, ni tampoco portar artículos capaces de ser usados como armas; existen el allanamiento y arresto sin orden judicial, etc. Esto se hace bajo la Ley de Poderes Especiales de las Fuerzas Armadas de 1958 (enmendada en 1972).

La ley prevé que toda área se transforma en un «área de disturbios» cuando el Gobernador del estado lo notifica en la gaceta oficial porque el/ella es de la opinión de que el área se encuentra en una tal situación de disturbio o peligro, que se hace necesario el uso de la fuerza en apoyo de los poderes civiles. Aquí se trata de la opinión personal del Gobernador y la Asamblea estatal no tiene la facultad de asesorar. El fundamento de la opinión del Gobernador no puede ser probado en ninguna parte, por lo que depende completamente de los deseos del mismo, quien es virtualmente un agente del gobierno Central. Además, la ley prohíbe tomar acción legal contra cualquier persona con respecto a cualquier acción real o pretendida realizada en ejercicio de los poderes conferidos por la Ley.

Situación de los derechos humanos

El reconocimiento y el respeto de los derechos humanos es algo del pasado en las áreas donde la Ley de Poderes Especiales de las Fuerzas Armadas está vigente. Como la ley otorga virtualmente total impunidad legal, las fuerzas armadas de la India en las áreas naga han hostigado, torturado y detenido en forma rutinaria a individuos o incluso bombardeado todo el pueblo bajo diversos pretextos.

El 5 de marzo de 1995, una caravana del ejército de la India, que transportaba a más de 600 soldados de los Fusileros de Rashtriya, pasó por el pueblo de Kohima cuando el neumático de uno de los vehículos de la vanguardia reventó con una fuerte explosión. La explosión fue interpretada como un ataque del ejército naga y algunos de los fusileros abrieron fuego inmediatamente. Esto fue imitado por los otros y el fuego se dirigió hacia los transeúntes naga que pasaban por el lugar. Alcanzaron inmediatamente a 17 per-

sonas y cuatro de las mismas murieron en el lugar. Los soldados comenzaron entonces a bombardear con morteros y armas de repetición el área densamente poblada del pueblo de Kohima. A los Fusileros de Rashtriya se les sumaron pronto el 29 Regimiento de Fusileros de Assam y la Fuerza Policial Central de Reserva en varios puntos del pueblo. El ejército corrió por las calles atacando a los civiles que encontraban a su paso durante unas dos horas. Ocho civiles, incluyendo dos niños, fueron muertos durante este ataque despiadado y más de 150 personas resultaron heridas. De éstas, 136 fueron arrestadas. Cientos de hogares fueron allanados y más de 50 casas fueron destruidas o averiadas por el fuego de artillería.

Esta es una repetición de los bombardeos con morteros y de los tiroteos indiscriminados del pueblo de Ukhrul, en el estado de Manipur, del 9 de mayo de 1994 y del pueblo de Mokochung, el 27 de diciembre de 1994, perpetrados por el 20 Regimiento de Fusileros de Assam, el 16 Regimiento de Infantería Ligera de Maratha y el 10 Regimiento de Fusileros de Assam, en los cuales fueron muertos un total de 15 civiles y tres mujeres fueron violadas.

En 1995 han habido muchos más incidentes en los cuales las fuerzas armadas de la India dispararon indiscriminadamente en pueblos y aldeas de las área naga. Para citar algunos otros ejemplos: el pueblo de Akuluto en el área *semi*, en el Estado de Nagaland, fue sometido a fuego indiscriminado por parte del ejército de la India el 23 de enero de 1995. En otra instancia de ataque sádico, Inashe Ayemi, un funcionario estatal, su chófer y un asistente, Khadir y Ram Bahadur fueron muertos por un contingente del ejército en Dimapur, estado de Nagaland, el 7 de septiembre de 1995. Hubo un breve intercambio de fuego entre un contingente del ejército y un grupo de personas sospechosas de ser insurgentes en un punto de la localidad, apenas pocos minutos antes de que Inashe Ayemi llegara con su chófer.

Se dijo que cuando estaban saliendo de su automóvil se volvieron a oír disparos. Khadir y Ram Bahadur corrieron al tercer piso y se asomaron al techo de la terraza para observar. Allí Khadir fue alcanzado por una bala. No era una herida mortal. Cuando la gente de la casa estaba bajando a Khadir del techo, entró el ejército y al ver a esta gente transportando una persona con heridas sangrantes, los atacó. Inashe Ayemi se adelantó rogando ser oído pero fue derribado de un culatazo en su cabeza. Siguieron golpeándolo, fracturando su cráneo y haciéndole saltar los ojos. Ram Bahadur y Khadir fueron llevados junto con el cadáver de Inashe y torturados hasta la muerte.

Ataque contra los activistas por los derechos humanos

El 19 de junio de 1995, en un escandaloso intento de suprimir al movimiento de derechos humanos por la fuerza, Shelley Chara, un activista de los derechos humanos altamente respetado, del Movimiento por los Derechos Humanos del Pueblo Naga (NPMHR), fue muerto a tiros por 2 pistoleros en su residencia, a plena luz del día. La persecución y el hostigamiento cotidiano de los activistas por los derechos humanos es una experiencia común, pero esta muerte premeditada ha herido profundamente al pueblo y ha ocasionado una serie de manifestaciones de protesta en diferentes partes del estado de Manipur, donde fue muerto. Desde su llegada después de haber asistido a la 13ª Sesión del Grupo de Trabajo sobre Poblaciones Indígenas de la ONU en Ginebra, en 1994, se dijo que estuvo constantemente vigilado por agentes secretos de la India. Este país ha negado toda participación en su asesinato y ha alegado en cambio que ha arrestado a su asesino en julio de 1995. Sin embargo, hasta la fecha, nadie ha sido formalmente acusado de su muerte.

El gobierno de la India ha estado también escalando su persecución y hostigamiento de Luigam Luithui, el Secretario General de AIPP, conocido activista por los derechos humanos y a su esposa Peingamla. El 2 de julio de 1994 cuando el pasaporte de su esposa fue robado en un populoso mercado en Bangkok, la Misión India en Bangkok se aprovechó del hecho para negarle un duplicado (no se le otorgó siquiera un documento de viaje). En cambio, la Misión de la India lanzó una campaña de falsa propaganda contra Luithui con el objetivo de que se arrestara inmediatamente a su esposa en Tailandia, ya que no disponía de un pasaporte. De acuerdo a fuentes cercanas al Ministerio del Interior de la India, se envió dos veces al Secretario del Ministerio a Tailandia a negociar el arresto de Luithui (artículo de T.V.R: Shenoy «El curioso caso de los hermanos Ibrahim», *Economic Times* 13/02/96). La India se ha negado a emitir visado adicional a Luithui con el objetivo de inmovilizarlo.

El gobierno de la India ha recibido una amplia condena por esto. Los participantes de la 21 Convención de la Sociedad Civil y Derechos Humanos en Katmandú, del 8 al 10 de marzo de 1996, publicó una declaración condenando a la prensa y al gobierno de la India y los instó a detener inmediatamente las acciones ilegales y los hostigamientos. En Deli, grupos de ONGs y líderes estudiantiles y personas eminentes han emitido conjuntamente una respuesta al artículo de T.V.R. Shenoy, instando al *Economic Times* a «no per-

mitir ser usado por sectores interesados de la burocracia en su campaña ilegal contra un ciudadano».

Algunos signos alentadores

Durante la mayoría de los últimos 42 años, es decir, desde el comienzo de la ocupación militar de Nagaland por la India en 1953, la mayoría de la población naga ha estado viviendo en una situación en la cual se ven enfrentados al terrorismo estatal de la India en cada momento de sus vidas. Para ocultar el dolor y la vergüenza infligidos por el terrorismo estatal, las elites de la India propagaron sucias historias sin fundamentos sobre los naga, a través de los medios de difusión, el aparato estatal y las escuelas, para desalentar a la gente de visitar Nagaland. Instigaron disturbios comunales y ataques al movimiento por los derechos humanos para ocultar los hechos. Cuando estas actitudes parecen no obtener los resultados deseados, los ministros y sus medios de prensa hablan de la necesidad de una solución política a la cuestión.

Esta vez, el Primer Ministro de la India y sus funcionarios hacen un llamado por una solución política. Sin embargo, cualquier actitud seria hacia soluciones políticas para una cuestión que data de tan largo tiempo, requerirá una amplia consulta a nivel popular. De otra manera, no será nada más que otro paso pacificador.

El NPMHR ha preparado el terreno para lanzar la segunda fase de una campaña por la revocación de la Ley de Poderes Especiales de las Fuerzas Armadas de 1972, en colaboración con muchas organizaciones y personalidades eminentes. Por primera vez, los Ciudadanos por la Democracia, que representa a los hombres de estado de más antigüedad de la India, ha presentado pasos concretos para facilitar un diálogo abierto entre los naga y la opinión pública de la India. Este es un paso muy positivo en dirección a la preparación del público para que pueda comprender la realidad histórica que indica que la imposición y la asimilación no tienen lugar en una democracia.

Notas

- 1) MNLF: el más importante y numéricamente mayor de los grupos rebeldes musulmanes que luchan por la independencia o la autonomía en el sur de las Filipinas.
- 2) Barangay: la menor unidad administrativa de las Filipinas, equivalente a un barrio, o una pequeña aldea (en las ciudades).

- 3) BOT: «Build-Operate-Transfer» (Construcción-Operación-Transferencia), un arreglo contractual entre el gobierno y compañías privadas, de acuerdo al cual la compañía debe construir el proyecto en cuestión (p. ej., una represa hidroeléctrica), operarlo por un cierto tiempo, y luego venderlo al gobierno el cual lo administrará en el futuro como una empresa estatal.
- 4) OSCC: Oficina para las Comunidades Culturales del Sur, una de las dos agencias oficiales gubernamentales cuya tarea es asegurar el bienestar de los pueblos indígenas.
- 5) TRICAP: Asociación de Comunidades Tribales de las Filipinas, una organización creada por el gobierno para representar supuestamente a los pueblos indígenas, liderada por políticos indígenas con amplios antecedentes de colaboración perniciosos.
- 6) DAO 2: Orden administrativa del gobierno que promueve la delimitación de los territorios ancestrales indígenas con miras a mejorar los derechos de tenencia de la tierra de las comunidades de la montaña; criticada por algunas organizaciones indígenas porque carece de derechos que reconozcan verdaderamente la propiedad, pero bienvenida por muchos como un instrumento para mejorar la seguridad de la tenencia y para contribuir a popularizar la noción de los derechos indígenas al territorio tradicional.
- 7) Lumad: término genérico para todos los pueblos indígenas de la gran isla de Mindanao, comprendiendo entre 15 y 20 grupos étnicos, algunos de los cuales se exhiben en el mapa.

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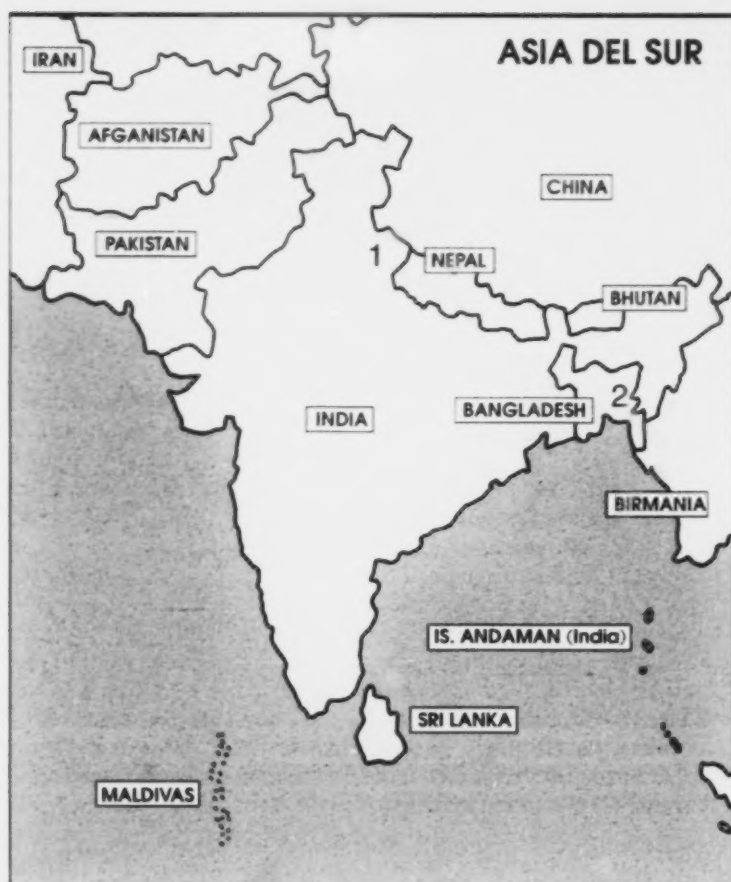
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1. Van Gujjar y Jaunsari

2. Jumma

ASIA DEL SUR

INDIA

Uttar Pradesh

En un futuro muy cercano, si un operador radio aficionado en India escucha una comunicación y oye el rugido de un tigre o el trompeteo de un elefante salvaje en el fondo, sabrá que proviene de los bosques del propuesto Parque Nacional Rajaji. La llamada será probablemente de un *van gujjar* que alerta a sus compañeros acerca de los movimientos de cazadores furtivos, o contrabandistas de madera, o sobre un incendio del bosque, o quizá podría ser una llamada de emergencia pidiendo ayuda médica.

La situación precedente sería notable teniendo en cuenta que los *van gujjar*, hasta mediados de 1995, estaban a punto de ser expulsados de estos mismos bosques. Este intento de expelerlos de los bosques, detener su práctica de la transhumancia y asentarlos en áreas inhóspitas, los habría apartado, traumáticamente, de su estilo de vida que data de varios siglos. Esto, a su vez, los habría hecho perder efectivamente su identidad cultural e indígena. Hoy se han organizado y exigen los derechos legales y facultades que les corresponden por ser una tribu indígena transhumante que habita en el bosque. Las autoridades del parque propuesto ya no los presionan, no tratan de obligarlos a abandonar el área y han renovado sus permisos para practicar la transhumancia a las altas pasturas del Himalaya en los meses del verano.

Un equipo de investigación independiente, compuesto de expertos internacionales en estudios medioambientales y antropología, y expertos nacionales en el campo del derecho y la silvicultura, asistidos por los mismos *van gujjars*, ha formado un plan Comunitario de Manejo Forestal de Areas Protegidas. Este plan, si es implementado, crearía el Primer Parque Nacional Popular de la India. El plan tiene como objetivo proteger el ecosistema y la fauna de la sierra de Shiwalik, y los derechos, necesidades y estilos de vida de los *van gujjars* y otros habitantes locales. Se prevé que ésto dará la posibilidad al pueblo de hacer sus propias opciones acerca de dónde

quieren vivir de una forma ambiental y económicamente sustentable, ya sea en el bosque o fuera de él. Estos objetivos serán impulsados mediante cinco estrategias complementarias. Éstas son, estructura de manejo forestal comunitario del área central, estructura del comité aldeano de productos forestales menores, estructura comunitaria de implementación, apoyo al estilo de vida nómada van gujjar por parte del departamento forestal, y prioridades desarrollistas van gujjar. El plan se ajusta a las previsiones de las Constituciones de la India acerca del derecho fundamental del individuo a la vida y al uso de la tierra.

Los pastores van gujjar

Los pastores van gujjar habitan en los bosques de las llanuras durante los meses de invierno y en la región de las pasturas de las alturas del Himalaya durante el verano, para asegurar la producción de leche de búfalo. Existe un parentesco entre ellos y los animales salvajes porque consideran que ambos derivan de la misma matriz del bosque. Por lo tanto, conciben la matanza de animales salvajes como un pecado digno de condena pública, castigos corporales y ostracismo social. Para ellos el bosque es un lugar benigno que brinda los alimentos que necesitan. Su concepción general es que la prosperidad premia a quienes respetan las leyes naturales, así como la pobreza caerá automáticamente sobre quienes desdeñen sus leyes.

Los van gujjar han sido esencialmente habitantes del bosque durante siglos. Sin embargo, las intervenciones urbanas de los años más recientes, como las explotadoras fuerzas del mercado así como las antipáticas, y muchas veces corruptas, actitudes del gobierno departamental, han aportado dolor y miseria a sus vidas. Para aquellos que viven en los distritos de Uttar Pradesh Occidental, en los bosques de las sierras de Shivalik, lo peor, por supuesto, ha sido la amenaza de cambiar su estilo de vida. Ésto era consecuente con la notificación del gobierno estatal de 1983, sobre su intención de transformar estos bosques en el Parque Nacional Rajaji, de 820 km² de superficie.

En vista de la explotación y la miseria forzada del pueblo, RLEK ("Rutal Litigation and Entitlement Kendra", una ONG que trabaja por el fortalecimiento de los pueblos indígenas van gujjar y *jaunsari*) comenzó a intervenir en 1992. En tres años, 21.000 adultos fueron alfabetizados por un innovador programa de alfabetización de adultos. Se organizaron para luchar por sus derechos y facultades



Capacitación de pueblos indígenas en Uttar Pradesh, norte de la India. Foto: RLEK.

legales. Se empezó por la educación escolar de sus niños mediante una serie de escuelas primarias. Se les brindó asistencia sanitaria y veterinaria a través de un equipo médico calificado, que incluye hoy un equipo de apoyo de estudiantes van gujjar de medicina y veterinaria. Comercializan su leche con el apoyo infraestructural de dos camiones lecheros refrigerados. Tienen cuentas bancarias y se han organizado también en Grupos de Autosuficiencia reconocidos por el Gobierno de India. Así, hoy están al borde de quebrar los grilletes que los tenían presos atrozmente, durante tanto tiempo, de las deudas, la inseguridad y la incertidumbre con respecto a su futuro.

El pueblo indígena jaunsari

Otra revolución social tendría lugar en la región de Jaunsar, también en el Himalaya. Las mujeres de la comunidad indígena *kolta* y similares "sectores débiles", cuyos hombres habían vivido como trabajadores forzados hasta 1975, participarían en las elecciones «Panchayat» (autogestión local) contra los mismos propietarios que los habían sometido a trabajos forzados. En una sociedad cerrada, embebida de viejos resabios sociales, esta transición, aunque implica un gran paso adelante para la organización política del país,

tendrá efectos traumáticos para los autotitulados «gobernadores» del pueblo. Aunque ya está claramente determinado, no están dispuestos a aceptar o incluso creer que una mujer, de las castas "inferiores" de los koltas y otros, encabece instituciones de autogestión local con poder constitucional en sus "Panchayat" aldeanos.

Los kolta de la región de Jaunsar, del Himalaya Occidental, están en contraste absoluto con la comunidad van gujjar. Este grupo indígena, perteneciente al estrato más bajo del sistema de castas hindú, eran los habitantes originales del área y lo remoto de su hábitat y su inaccesibilidad, los había aislado del resto de la sociedad. Sin sistema monetario, sobrevivieron mediante el trueque.

La colonización de las castas superiores y la codificación del sistema de la tenencia de la tierra por los colonizadores británicos, en 1883, son el origen de su vida miserable. Ésto privó a los kolta de la propiedad de la tierra y los redujo a trabajadores agrícolas. Ya no podían hacer trueques y sólo podían cumplir con los gastos que se les impusieron adquiriendo préstamos de los dueños de la tierra. Esto los convirtió efectivamente en esclavos y muchas veces tenían que trabajar sin remuneración para los terratenientes, durante varias generaciones, para restituir la deuda. Además, el sistema de gobierno, inhumano e insensible, sólo colaboró a su miseria. Tales penurias económicas llevaron a una mayoría de los trabajadores esclavizados a vender a sus mujeres en el comercio de la prostitución. Los esfuerzos de RLEK, en y fuera de la justicia, en esta región y otras partes diferentes del país puso fin a esta práctica mediante la "Ley de Abolición del Trabajo Forzado de 1975", aprobada por el Gobierno de la India.

Intervención actual de la Suprema Corte

Casi todo los estados han celebrado elecciones a las instituciones Panchayat Raj de acuerdo a las Leyes 73 y 74 de Enmienda Constitucional. El estado de Uttar Pradesh ha celebrado elecciones en todos los distritos excepto en las áreas montañosas del oeste. Ésto incluye el área Jaunsar. Entonces, RLEK presentó el asunto a la Corte Suprema de la India. Sostuvo que la continuación de los Panchayats en estas áreas, más allá de sus cinco años reglamentarios, constituía una violación constitucional y también privaba a las mujeres, a las castas y tribus registradas y a las clases menos favorecidas (*dalit*) de su derecho constitucional al gobierno, ya que se les reservaron el cuarenta por ciento de los escaños en los tres niveles del sistema de gobierno. La Corte Suprema ha emitido

aviso de la causa al Gobierno. Al mismo tiempo, intereses creados habían negado la existencia de castas registradas en el área de Jaunsar, de manera que el beneficio de reservación no les correspondiera a los kolta y a otras castas "inferiores". RLEK intervino por ellos, con buen éxito, frente a las autoridades administrativas, logrando que pudieran estar en puestos de gobierno después de las elecciones venideras. (Según todo indica hoy, la intervención habría conseguido compeler al Gobierno del Estado de Uttar Pradesh a celebrar nuevas elecciones a las instituciones Panchayat Raj para cuando se lea este artículo).

Jharkhand

El año 1995 ha sido otro hito para el pueblo de Jharkhand. Esto se ha debido a la obstinada resistencia al proyecto hidroeléctrico Koel-Karo (K.K.H.E.P.) y a causa de la cuestión de la autonomía.

En mayo 1995, se informó que el gobierno central había sancionado, aparentemente, la financiación del proyecto hidroeléctrico Koel-Karo (K.K.H.E.P.) en Jharkhand, Bihar. Se informó que éste fue el resultado de una reunión entre el Primer Ministro de Bihar, el Sr. Laloo Prasad Yadav y el Ministro de Energía del gobierno central, el Sr. N.K.P. Salve, entre otros. Se informó además que el Primer Ministro, Sri P.V. Naramimsha Rao, iba a poner la piedra fundamental del proyecto en julio de 1995.

Ningún líder de Koel-Karo Jan Sanghatan (K.K.J.S.), la organización popular de oposición al proyecto, estaba presente en esta reunión: un ejemplo triste del enfoque verticalista relativo a las vidas y el destino de las comunidades.

El proyecto implica la construcción de diques a través de la parte meridional del río Koel en Basia, Gumla, y en la parte septentrional del río Karo en Lohajimi, Ranchi. Implica la inundación o adquisición de aproximadamente 26.000 acres de tierras de cultivo y 14.000 acres de tierras "estériles" y aproximadamente 9.000 acres de tierras públicas y gubernamentales. Según un informe anterior relativo al proyecto, serán desplazados 122 pueblos con 10.739 familias en los distritos de Gumla, Singhbhum y Ranchi. Fuentes no gubernamentales indican que la cifra real es de 256 pueblos con alrededor de 16.300 familias. Según la gente, 150 *sarnas* (lugares de culto) y más de 300 *sasandries* (osarios ancestrales) de tremenda importancia cultural y religiosa para los adivasis, serían también sumergidos.

El proyecto fue cuestionado ya en 1954, pero la verdadera resistencia enconada empezó en 1973 cuando la Comisión de Plane-

amiento de la India aprobó el proyecto. La resistencia contra el proyecto se fue constituyendo gradualmente en la forma de reuniones de masa, poco después de la reunión de mayo, cuando se publicaron los informes periodísticos. Entre el 10/6/95 y 30/6/95 se celebraron cinco reuniones masivas a las cuales asistieron, en forma estimada, de 5.000 a 20.000 personas. Culminaron el 5/7/95, en la fecha en que se suponía que el propio primer ministro pondría la piedra fundamental del proyecto.

Aproximadamente 15.000 a 30.000 personas se reunieron en Torpa y Basia para manifestar su oposición. Desgraciadamente, como ni el Primer Ministro ni el Primer Ministro de Bihar acudieron, la gente no les pudo expresar su decidida resolución contra el proyecto. De cualquier modo, volvieron a sus hogares con el valor, la resolución y el optimismo resultantes de la solidaridad popular.

La cuestión de la autonomía en el área de Jharkhand

En el mes de diciembre de 1994, fue promulgada por la Legislatura del Estado de Bihar "La Ley del Consejo Autónomo del Área de Jharkhand de 1994" que "establecerá un Consejo Autónomo para el desarrollo general acelerado del área de Jharkhand". Desde su aprobación y sanción, se ha expresado un resentimiento popular e incluso una disensión contra la misma, porque no llega a la acariciada meta de un estado dentro de la unión de la India.

Por eso, la Ley fue más bien una imposición aceptada de mala gana por uno de los protagonistas principales, Jharkhand Mukti Morcha (S). De hecho el Sr. Phabhakar Tirkey (J.M.M.S.), concedió poco después sin entusiasmo que "...al menos se ha otorgado reconocimiento y legitimidad al nombre de Jharkhand." Sin embargo, recientemente, en febrero de 1996, el J.M.M.S se ha fastidiado mucho y se ha convencido acerca de la traición de los Gobiernos como consecuencia de la falta de cooperación y a la resistencia del Gobierno de Bihar a dejar que el Consejo ejerza el poder que se le ha conferido sobre los 42 temas de su competencia. Por lo tanto, se está considerando otra vez tomar el camino de la agitación.

¿Qué es el Movimiento Jharkhand?

Según una opinión "El Movimiento Jharkhand es el movimiento por un Estado (Provincia) Multilingüístico y Multiétnico separado, dentro de la Unión de la India, que comprende la meseta de Chotanagpur y las áreas adjuntas de Bengala Occidental, Orissa y Madhya Pradesh. El punto de vista más extensamente aceptado es

incluir a los distritos de Chotanagpur, Santhal Parganas, Midnapur, Bankura, Purulia, Mayurbhanj, Keonjhar, Sundargarh, Sambalpur, Raigarh y Surguja, que ahora están distribuidos en cuatro estados." (Estudios del Tercer Mundo/julio-septiembre de 1989, Nueva Delhi). La categoría de estado para toda la región de Jharkhand todavía sigue siendo una realidad esquivada, y sólo se ha concedido una especie de autonomía en la forma del Consejo Autónomo del Área de Jharkhand, en la parte de Bihar. E incluso éste fue implementado en forma muy obstructiva y dilatoria. Finalmente, en agosto de 1995, se formó un Consejo Interino y un Consejo Ejecutivo Interino, con el Sr. Shibu Soren como presidente. La Ley dice: "La duración del Consejo Interino y del Consejo Ejecutivo Interino será de seis meses o hasta la constitución del Consejo según la Sección-3, cualquiera sea la primera." Esta previsión ya se ha violado y se ha extendido el plazo por otro tres meses. La Sección-3 dice: "El gobierno estatal establecerá un Consejo Autónomo para el área del Consejo, que constará de no más de 162 miembros directamente elegidos y no más de 18 miembros nombrados." No obstante, el Consejo Interino es un organismo de nombramiento estatal. En el Consejo Interino hay 31 miembros de Janata Dal (JD), lo cual es mucho más que la representación que disfruta en la región de Jharkhand, en la Asamblea Estatal de Bihar.

Las áreas clasificadas y Panchayati Raj

Ya en 1874 los británicos habían promulgado leyes especiales para el gobierno de las áreas tribales de la India. La Ley del Gobierno de la India de 1935 clasificó igualmente a estas áreas como regiones Tribales del Noroeste «totalmente excluidas», y clasificó al resto de las áreas tribales del país como «parcialmente excluidas.» Estas clasificaciones fueron hechas por los británicos y al hacerlas, omitieron áreas contiguas que podían haber sido reconocidas como áreas tribales o áreas clasificadas.

La Constitución de la India independiente continuó la práctica, aunque con modificaciones. Las áreas totalmente excluidas fueron incorporadas en la Sexta Clasificación de la Constitución y las áreas parcialmente excluidas en la Quinta. Las regiones tribales nor-orientales de Assam, Meghalaya, Tripura y Mijoram son gobernadas por las previsiones de la Sexta Clasificación y las previsiones de la Quinta Clasificación cubren las áreas tribales del resto del país.

En la clasificación de las áreas tribales de 1874, los británicos omitieron ciertas áreas de mayoría tribal. Estas áreas quedaron sin

clasificar incluso después de la independencia ya que la Orden Presidencial de las Áreas Clasificadas, emitida en 1950, omitió estas regiones. Para rectificar esta anomalía el Parlamento enmendó la Quinta Clasificación de la Constitución en 1976, permitiendo al presidente de la India aumentar el área clasificada y el Gobierno de la India encomendó a los Gobiernos Estatales enviar propuestas para la clasificación de las zonas/aldeas de mayoría tribal, pero éstas han seguido sin ser clasificadas hasta el día de hoy. El resultado neto es la ausencia de áreas clasificadas en los estados de Tamil Nadu, Karnataka, Kerala, Uttar Pradesh y Bengala Occidental a pesar del gran número de indígenas que viven en áreas compactas.

En los estados donde hay un área clasificada, grandes zonas de áreas tribales quedan fuera de los límites del área clasificada. Las áreas de Santhal Parganas y Chotanagpur en Jharkhand que han sido reconocidas tradicional e históricamente como áreas tribales están, por ejemplo, sin clasificar. Hay leyes tales como la Ley de Tenencia de Chotanagpur de 1908 y las Reglamentaciones de Asentamiento de Santhal Parganas de 1872, en beneficio de las personas tribales. Las áreas de Chotanagpur y Santhal Pargana han sido conferidas una cierta autonomía por la Ley del Concejo Autónomo del Área de Jharkhand de 1994. A pesar de todo, áreas tribales importantes en Chotanagpur y Santhal Parganas tales como los distritos de Palamau y Hazaribagh, no están clasificados y en consecuencia están excluidos de la protección constitucional.

En 1992, el Parlamento en su 73ª Enmienda Constitucional, realizó cambios y previsiones de gran alcance para la autogestión local (Panchayati Raj) a nivel aldeano. Sin embargo, el Parlamento excluyó las áreas clasificadas notificadas según la Quinta Clasificación de las previsiones de autogestión local. Los Panchayat son concejos aldeanos tradicionales, y después de la independencia india, se modificaron con mecanismos democráticos y electorales. No obstante, el problema con los Panchayat en las áreas tribales fue que éste era un concepto impuesto y no tomó en cuenta el sistema tradicional indígena. El reconocimiento del sistema impuesto por el gobierno debilitó gradualmente a los sistemas indígenas pero éstos no murieron totalmente.

Desatendiendo las previsiones que excluyen a las áreas clasificadas, la Asamblea de Bihar extendió la Ley Panchayat Raj de Bihar de 1993 a su áreas clasificadas. Esto ocurrió a pesar del hecho que tradicionalmente, la economía, política, cultura y marco social

indígena y tribal en Jharkhand han estado en contradicción con la sociedad de castas de Bihar. A éste propósito, el Sr. Laloo Prasad Yadav, el primer ministro de Bihar ha pasado a la posteridad al decir que: «Jharkhand será construida sobre mi cadáver.»

En respuesta a la Ley, fueron presentadas peticiones escritas a la Suprema Corte de Patna, entre ellas una del Sr. Basudeo Besra y de la Organización por los Derechos Humanos de Jharkhandis (JOHAR). La Suprema Corte de Patna, el 22.12.95 «...sostuvo que la Ley Panchayat Raj de Bihar de 1993 no aplicará a las Áreas Clasificadas... y disuadimos a los litigantes de celebrar las elecciones para los Panchayats en las Áreas Clasificadas.»

En la Petición Escrita de JOHAR el Ranchi Bench revocó la sentencia de Patna. Sin embargo, la Sentencia no excluye las áreas no clasificadas de Jharkhand de esta Ley de 1993. Ésto es aún más absurdo, cuando notamos que el Concejo Montañés de Darjeeling Gorkha (DGHC) ha recibido el beneficio de la exclusión. El área de DGHC no es un área predominantemente tribal ni cae dentro de la Quinta o Sexta Clasificación, siendo más bien una creación reciente en el panorama político indio después de agitación esporádica y violenta. Y, si se puede conferir al DFHC el beneficio de exclusión entonces no se ve una razón para incluir a las áreas no clasificadas de Jharkhand en el ámbito de la Ley de 1993.

Entretanto, siguiendo la división en niveles de la 73ª Enmienda de la Constitución para las áreas clasificadas, «El Comité de Miembros del Parlamento y Expertos constituido para hacer recomendaciones a la ley Acerca de la Extensión de las Previsiones de la Constitución (73ª Enmienda) de la Ley de 1992 a las áreas clasificadas» ha expresado «...que la ley consuetudinaria, las prácticas tradicionales, la ética comunitaria, etc., deben prevalecer cualesquiera sean las estructuras políticas legales administrativas que se introduzcan en las Áreas Clasificadas y áreas Tribales» y «...que en cualquier sistema que se proponga, se deberá permitir a los sistemas tradicionales jugar su debido papel.»

Los pueblos indígenas y tribales de la India están a la espera y observan si la India cumple con su propia 73ª Enmienda Constitucional en el espíritu de la protección constitucional para los tribales que ella misma establece.

Kerala

La lucha por la tierra, declarada el 26 enero de 1994 por las Organizaciones Adivasi bajo el Comité Conjunto de Lucha, realizó

sostenidos progresos. Este comité fue formado para llevar adelante la lucha en Kerala para implementar la Ley de las Tribus Registradas de Kerala (Restricción de Transferencia de Tierras y Restauración de Tierra) de 1975 y la Ley Forestal Privada de Kerala (Conferimiento y Asignación) de 1972. Según la Ley de las Tribus Registradas de Kerala, todas las transacciones de tierras adivasi con no-adivasis durante el período de 1960 a 1982, deben ser anuladas y las tierras deben ser devueltas a los dueños originales. Se han presentado 8.553 solicitudes de devolución de tierras.

La Ley también restringe la transferencia de tierra de adivasi a no-adivasi a partir de 1982. Esta Ley todavía no ha sido implementada por el gobierno, a pesar de una orden de implementación de la Suprema Corte. El gobierno ha declarado que la Ley en sí misma debe ser modificada, cediendo a la presión de los migrantes. A su vez, la Ley Forestal Privada de Kerala estipula que aproximadamente 23.000 hectáreas deben ser distribuidas entre los adivasis sin tierras. Esta ley tampoco ha sido implementada y la mayor parte de las tierras identificadas están bajo control del gobierno. La ocupación de la tierra del Proyecto Cheengery de 528 acres, el 26 de enero de 1995, (que se debería haber distribuido a los adivasis hace mucho tiempo), fue interrumpida el 7 de febrero por el gobierno, mediante arrestos en masa de los adivasis en lucha. El 5 de marzo, 76 familias se apoderaron de otro pedazo de tierra en Panavalli, controlado por el gobierno, levantaron chozas y empezaron a cultivar las tierras.

A pesar de que los funcionarios policiales incendiaron las chozas y arrestaron a más de cien hombres, mujeres y niños el 3 de abril, la gente continúa aferrada a las tierras. En agosto, se llevó a cabo con buen éxito una amplia campaña estatal sobre la cuestión de la tierra y sobre la lucha por la tierra. Los partidos políticos establecidos, de todos los colores, continuaron su oposición a la lucha por la tierra de los adivasis, amenazando con derramamientos de sangre. El gobierno juega con la idea de dar un acre de tierra a los adivasis junto con una suma en dinero en efectivo, en lugar de implementar las Leyes que protegen, en cierta medida, los derechos a la tierra de los adivasis. Mientras que ésta es la situación en el distrito de Wayanad que tiene la concentración más grande de adivasis de Kerala, en Attapadi, en el distrito de Palakkad, el Partido Comunista Revolucionario de la India (marxista-leninista), llamado Bandera Roja, ha lanzado una lucha por la tierra, con el intento de apoderarse de tierras en el pueblo de Varagamadi que las mismas autoridades

habían decidido devolver a los adivasis, sin haberlo realizado. El 10 de enero de 1996, la policía y fuerzas paramilitares los atacaron, y arrestaron a los líderes que hablaban en una reunión pública en Palakkad. Dos días más tarde muchas personas que habían intentado marchar hacia las tierras identificadas, fueron frustradas en su intento, siendo arrestadas por la policía que se había diseminado por toda el área en grandes cantidades para infundir terror. A pesar de ésto, se logró entrar a la tierra. El Partido Comunista tiene la intención de intensificar y difundir las luchas por la tierra de los adivasis en Kerala.

Tamilnadu

El estado tiene una población de más de medio millón de individuos pertenecientes a las Tribus Registradas, constituyendo el 1% de su población. Aunque la enajenación de la tierra ha sido creciente, como en el distrito de Nilgiri dónde las plantaciones de café y de té de las grandes compañías se han extendido como un virus, no existe ninguna legislación protectora como en el estado vecino de Kerala. Esto se puede atribuir principalmente a la falta de cualquier movimiento revolucionario de izquierda en las áreas adivasis de Tamilnadu, que ejerza presión política como en el estado de Kerala.

En los últimos años, las aldeas adivasi que bordean los estados de Tamilnadu y Karnataka se han encontrado bajo el fuego cruzado entre Veerappan, el contrabandista huido y fugitivo y su pandilla, y la Fuerza de Tareas Especiales (STF) constituida por la policía y fuerzas paramilitares específicamente para prenderlos. El asesinato, la violación y el saqueo de adivasis por STF han sido un fenómeno común. Las atrocidades de STF en la aldea de Chinnampathy, en el distrito de Coimbatore, el 11 de junio de 1994, dónde se alegaron violaciones de mujeres adivasis y ataques de hombres, fue objeto de agudas protestas, sobre todo por el ala femenina del Partido Comunista de la India. Por consiguiente el gobierno ordenó una investigación judicial encabezada por la jueza Bhanumathy. Las víctimas, apoyadas por la Unión Popular por las Libertades Civiles de Tamilnadu, acusaron al STF de violación y ataque y a la administración del distrito, a la policía y al representante popular a la asamblea estatal, por intentar ocultar los hechos. Sin embargo, el gobierno decidió el 3 de mayo de 1995 otorgar una compensación de 100.000 rupias a cada una de las dos mujeres adivasi víctimas de violación y también una compensación a los heridos. No se hizo nada para

identificar y proceder contra los culpables uniformados. Incluso en un estado conocido eufemísticamente como un estado policial, ésto ha actuado como un disuasivo para STF, las cuales continúan, sin éxito, sus operaciones de rastrilleo para aprender a Veerappan.

Los derechos de los adivasis a la supervivencia en su hábitat han sido sistemáticamente eliminados por los Santuarios de la Fauna constituidos bajo la Ley de Protección de la Fauna de 1972 como, p. ej., los Santuarios de la Fauna de Mudumalai e Indira Gandhi, en Ghats Occidental. Las tierras adivasi han sido usurpadas por los proyectos de turismo ecológico y balnearios de empresas privadas surgidos como consecuencia del proyecto de hacer del turismo la industria más grande en Tamilnadu para el año 2000. Dos ONGs, el Parque Zoológico Coimbatore (CZP), apoyado por el Zoo Outreach Organisation, han intentado apoderarse de más de aproximadamente 400 acres de tierras adivasi en Thoovaipathy, en el distrito de Coimbatore, que limita con Kerala. Es interesante que instituciones de prestigio, como la Unión Internacional para la Conservación de la Naturaleza, WWF, la Unión Internacional de Directores de Parques Zoológicos, British Airways, la Unión Internacional de Rotarios, etc., están de una manera u otra vinculados a su promoción. Han habido agitaciones por parte de adivasis quienes alegan atrocidades, usurpación de tierra, casos falsos, etc., como consecuencia del primer parque zoológico de propiedad particular del país y, supuestamente, el mejor del mundo, promovido por hombres de negocio e industriales inescrupulosos. Sus actividades, sobre todo de usurpación de tierras fueron probadas por el equipo de investigación de la Unión Popular por los Derechos Civiles de Tamilnadu en agosto de 1994, así como también por FIAN Internacional - una organización de derechos humanos con sede en Alemania. FIAN comenzó una campaña contra el CZP. Los adivasis demolieron el cerco de CZP y volvieron a tomar la tierra Poramboke (del gobierno), que el CZP había usurpado ilegalmente a los adivasis a mediados de 1994, en julio de 1995, intensificando así la confrontación directa.

Como consecuencia del llamado del Frente Nacional por el Gobierno Autónomo Adivasi a la desobediencia civil, del 2 de octubre de 1995, se lanzó una campaña a nivel estatal a mediados de noviembre de 1995, sobre la cuestión de la autogestión. Esta campaña fue iniciada por el Consejo Conjunto de las Asociaciones Tribales - un foro de ONGs comprometido con el desarrollo tribal.

El 2 de diciembre de 1995 se celebró una reunión de aproximadamente 10.000 adivasis del estado, para exigir que todas las aldeas adivasi sean registradas bajo el Punto 5 del Artículo 244 y la aprobación y sanción de una ley acorde a las Recomendaciones del Comité Bhuria para las áreas del Punto 5.

Karnataka

El *Moolanivasi Budakattu Janara Vedike* (Foro de los Pueblos Indígenas) del Estado de Karnataka decidió, en octubre de 1995, entrar a los bosques reservados y áreas de parques nacionales a recolectar productos menores del bosque, el 22 de noviembre, en su intento de establecer la autogestión. Esta decisión fue consecuencia de una campaña sistemática y de manifestaciones por la autogestión. El gobierno respondió, en forma característica, con amenazas de arrestos para tratar de detener a los recolectores de productos selváticos por no poseer el permiso requerido por la ley. A pesar de la amenaza y del despliegue masivo de policía y funcionarios forestales, los adivasis entraron a los bosques en varios lugares por centenares, hicieron sus ofrendas tradicionales a los espíritus de los bosques y recogieron simbólicamente los frutos menores del bosque. Las fuerzas policíacas y los funcionarios forestales no se opusieron a esta acción simbólica de autogestión, evitando así una confrontación directa.

NEPAL

Nepal es un país multiétnico, multilingüístico, multireligioso y multicultural. Lingüísticamente, los nepaleses se dividen en cuatro grupos lingüísticos: indo-arios (caucásicos o khas), tibeto-birmanos (mongoloides), dravianos y austro-asiáticos (austroloides). Estas divisiones raciales también difieren en la estructura social en que los caucásicos están basados en *jat* (casta) (diferenciación vertical de estatus) y los mongoloides son principalmente tribales (*jati*/nacionalidad), es decir, agrupaciones espaciales u horizontales. La historia conjetural basada en estudios geológicos y antropológicos sugiere que los mongoloides fueron los primeros pobladores de Nepal. Estos pueblos indígenas son conocidos como *aadibasi/janajati* en nepalés. Son conocidos actualmente como los *bhote* (*dolwa, manage, holonge, topkegola, byansi*, etc.), *sherpa, hyolmu* y *thakali* (*lhopa, bara conle, marphali, tangbe, chimtan, syantan, siyar, thintan*,

etc.), en las montañas; *chepang, gurung (tamu), jirel, lepcha, limbu, magar, newar, rai, sunuwar, tamang, thami, dura, chhantyal, pahari, kusunda, hayu*, en las colinas; los *bote (majhi, kuswar, daral), kumal, raute, damuwar, raji* en las *terai* (llanuras) interiores; y los *dhimal, gangai, koche (rajhashi, tajpuriya), meche, kissan y tharu* en las *terai* (llanuras). Los otros dos grupos; *satar* (australoides) y *jhangad* (diayidianos) están también en las llanuras. Estos pueblos indígenas viven en las diferentes regiones del país y mantienen un fuerte sentido de su cultura diferenciada, siendo su rasgo más destacable una relación especial con la tierra. Su estilo de vida abarca desde el de cazadores (nómadas) y habitantes del bosque a habitantes urbanos que participan plenamente en la cultura nacional. Religiosamente son o budistas o animistas.

Algunos de los pueblos janajati estaban organizados mucho antes del surgimiento del Movimiento de los Pueblos de 1990. Los representantes de estas organizaciones fundaron juntos la Federación de Nacionalidades de Nepal (NEFEN) en 1990 con el objetivo de coordinar, dirigir y conducir las organizaciones de pueblos janajati en función de su causa común. Los objetivos de NEFEN son duales; su objetivo principal es capacitar a los pueblos indígenas para que puedan acceder a una plena vida humana con dignidad y para que puedan jugar un papel fundamental en el desarrollo de la nación. Los objetivos operacionales son aumentar la consciencia pública de todos los derechos humanos internacionales, promover los derechos humanos, los derechos de la minoría y los derechos de los pueblos indígenas y emprender actividades que aseguren una protección especial y un desarrollo para los pueblos indígenas y minorías nacionales del estado en peligro de desaparición. Actualmente NEFEN está representado por 23 organizaciones de pueblos indígenas. Están son:

1. Miembros: Chhantyal Pariwar Sangha (los chhantyal)
2. " Danuwar Jagaran Samiti (los danuwar)
3. " Dhimal Bikas Kendra (los dhimal)
4. " Dura Sewa Samal (los dura)
5. " Jirel Samudaya Utthan Sangha (los dhimal)
6. " Kirant Ral Yayokkha (los ral)
7. " Kirant Yakthung Chumlung (los limbu)
8. " Meche Samaj Sibiyari Aafat (los meche)
9. " Nepal Bhasha Mangka Khala (los newar)
10. " Nepal Hyolmo Samaj (los hyolmo)
11. " Nepal Kushwar (Majhi) Sangha (los majhi)

12. « Nepal Magar Sangha (los magar)
13. « Nepal Tamang Ghedung (los tamang)
14. « Niko Thami Sewa Samiti (los thami)
15. « Rajbanshi Bhasha Prachar Samiti (los rajbanshi)
16. « Sunuwar Sewa Samaj (los sunuwar)
17. « Tamu Bandha Sewa Samiti (los gurung)
18. « Thakali Sewa Samiti (los thakali)
19. « Tharu Kalyankarini Sbjha (los tharu)
20. « Yhambu Shyarwa Chichhog (los sherpa)
21. « Nepal Jhangad (Urab) Kodem sudrara (los jhangad)
22. « Nepal Chepang Chyoksna [sangha] (los chepang)
23. Miembros asociados: Kirant Dharma y Sahitya Utthan Sangha

NEFEN en su propio Segundo Congreso en 1994 y en la Consulta Nacional sobre Pueblos Indígenas de Nepal celebrado en marzo de 1994, organizado por el Comité Nacional por el Decenio Internacional de los Pueblos Indígenas del Mundo (formado a nivel popular) junto con el Pacto de los Pueblos Indígenas de Asia (AIPP), ha identificado dos tipos de problemas y ha propuesto soluciones posibles y planes de acción: Tipo I a ser realizado por NEFEN y Tipo II a ser realizado por el Gobierno de Su Majestad (HMG/N). La propuesta de NEFEN a ser realizada por HMG/N es como sigue:

1. Reconocer la definición de Pueblos Indígenas y de sus derechos tal como fueron determinados por la Consulta Nacional sobre Pueblos Indígenas de Nepal en 1994.
2. Establecer un «Instituto Central de Nacionalidades» para el desarrollo de la religión indígena, las lenguas y las culturas y un «Concejo de Desarrollo para las Nacionalidades» para elevar el nivel socioeconómico de las Nacionalidades y para formular planes, políticas y programas; y
3. Buscar maneras de compartir el poder con los Pueblos Indígenas, estableciendo la autogestión y la autonomía a nivel local y una Cámara de Nacionalidades (Cámara Alta del Parlamento) en lugar del Concejo Nacional del Parlamento.

NEFEN había propuesto al Gobierno del Congreso Nepalés formar un «Comité Nacional para el Año Internacional de los Pueblos Indígenas del Mundo» a nivel gubernamental en 1992, en correspondencia con el llamado de la Naciones Unidas. Debido a la falta de voluntad del gobierno, se formó un Comité Nacional para el

Año Internacional de los Pueblos Indígenas del Mundo a nivel popular. Después del transcurso de un lapso de seis meses del Año Internacional de 1993 y a una semana de la Conferencia Mundial sobre Derechos Humanos a celebrarse en Viena, el gobierno nepalés formó también un Comité Nacional para el Año de los Pueblos Indígenas pero no hizo nada a excepción de un seminario. A comienzos del Decenio de la ONU, NEFEN propuso también al Gobierno formar un «Comité del Decenio de los Pueblos Indígenas» y un «Comité Nacional para el año Internacional de los Pueblos Indígenas del Mundo». El gobierno del Partido Comunista Unido Marxista-Leninista de Nepal (CPN-UML) formó un Comité Nacional para el Decenio Indígena pero éste dejó de funcionar con la caída del gobierno de UML. El actual Gobierno de Coalición de tres partidos, encabezado por el Congreso nepalés, llegó al poder de nuevo en octubre de 1995. Este gobierno no ha emplazado todavía una sola reunión del Comité del Decenio. Pero este gobierno nombró un Equipo Especial para elaborar sugerencias para fundar una «Academia para la Promoción de los Pueblos Janajati». El equipo ha sometido ya su Informe a HMG/Nepal. No es seguro que el HMG/Nepal implemente el Informe. Uno de los aspectos positivos del informe es que ha adoptado la definición de Pueblos Janajati (Pueblos Indígenas) tal como la definió NEFEN y el Comité Nacional de los Pueblos Indígenas de Nepal.

La constitución presente, en medio de protestas masivas, reconfirmó a Nepal como un estado hindú. Hay muchas implicaciones en un estado hindú, por ejemplo que los estudiantes de la casta Brahmin (casta superior de los grupos gobernantes) han monopolizado la Educación Sánscrita, una fuente de la religión hindú, desde la escuela a la Universidad, disponiendo de alojamiento libre, alimentación y también becas, mientras que los niños de los pueblos indígenas no disponen ni siquiera de educación primaria libre y obligatoria. A pesar de la existencia de la Universidad Sánscrita libre para la casta alta Brahmin, el Gobierno del Congreso Nepalés introdujo la educación sánscrita en la enseñanza secundaria como una materia obligatoria y el gobierno de UML introdujo noticias radiales en sánscrito. Desde el primer día de emisión de noticias en sánscrito en los medios de difusión del gobierno, NEFEN comenzó una agitación contra la educación obligatoria del sánscrito y la emisión de noticias radiales en esta lengua. NEFEN entregó un memorándum al primer ministro del UML instándolo a retirar la enseñanza obligatoria del sánscrito del plan

de estudios y detener las noticias en sánscrito de Radio Nepal:

1. Ninguna familia habla sánscrito en casa, por lo que es una lengua muerta.
2. El sánscrito es la fuente y el medio para la hindustanización.
3. El sánscrito no tiene ninguna conexión con las lenguas de los pueblos indígenas pues el sánscrito pertenece a la familia de lenguas indoeuropeas mientras que las lenguas de los pueblos indígenas pertenecen a la familia sino-tibetana/tibeto-birmana.
4. Nadie sería privado del derecho a la información si no se emitirían las noticias en sánscrito.
5. Existen todavía muchas comunidades que no entienden las noticias transmitidas en khas-nepalés (la llamada lengua nacional y oficial) y otras lenguas usadas en los medios de comunicación.

En lugar de la enseñanza del sánscrito, los pueblos indígenas de Nepal quieren una educación en su lengua materna, y noticias radiales en sus propias lenguas indígenas. NEFEN también exigió que la Universidad Sánscrita se transforme en una Universidad Multilingüística y que la Universidad sea libre para todas las comunidades, ya sean hindúes o budistas o janajatis. Debido a la presión constante de NEFEN, el Gobierno de UML había formado un Equipo Especial para resolver la disputa del sánscrito. Este equipo había preparado un informe pero el gobierno actual no lo aceptó. Todavía sigue la enseñanza del sánscrito y las noticias radiales en esta lengua.

Igualmente NEFEN tuvo que jugar a un papel defensivo cuando los fundamentalistas hindúes exigieron «cerrar a Nepal». NEFEN se opuso decididamente a los fundamentalistas hindúes y logró un apoyo popular muy amplio. Los fundamentalistas hindúes no lograron «cerrar a Nepal» y se vieron obligados a detener su movimiento.

Aparte de procurar el reconocimiento y la afirmación de los derechos de los pueblos indígenas, NEFEN busca activamente formas y medios de desarrollo alternativo que sean apropiados para los pueblos indígenas. NEFEN ha trabajado con Supervivencia Cultural Canadá en un proyecto «Economía Alternativa de las Mujeres Indígenas.»

NEFEN busca formas de documentar el conocimiento tradicional, la sabiduría y la cultura de los pueblos indígenas. NEFEN ha

establecido relación con el Pacto de los Pueblos Indígenas de Asia (AIPP), la Red de los Pueblos Indígenas por la Biodiversidad (IPBN), y Pueblos Indígenas de los Bosques Tropicales.

CHITTAGONG HILL TRACTS

Las elecciones generales de febrero de 1996 no rindieron resultados definitivos. El desorden prevaleciente no ha favorecido la paz y la estabilidad de la generalidad del país, y la situación de los indígenas de Chittagong Hill Tracts no ha mejorado. La División de Asuntos Especiales del Gabinete del Primer Ministro tiene la responsabilidad general de los asuntos de Hill Tracts, lo cual constituye una indicación de lo sensible que es la cuestión en esta zona. El área sigue cerrada a extranjeros y se requiere un permiso previo de la División de Asuntos Especiales en los puestos de control del ejército estacionados en la frontera interna de Hill Tracts, para poder entrar a la zona.

Negociaciones

Como resultado de la presente crisis política, las negociaciones del Gobierno de Bangladesh y el Jana Samhati Samiti (JSS) han sido discontinuas. La demanda principal del JSS es por una autonomía regional dentro del marco de la constitución nacional. Desde que se inició el diálogo entre el JSS y Gobierno, en noviembre de 1992, no se ha alcanzado ningún progreso substancial con la excepción de un cese del fuego hasta el 31 marzo. No se ha fijado ninguna fecha para la próxima vuelta de conversaciones.

Un análisis de las negociaciones lleva a uno a cuestionar la sinceridad del intento del Gobierno de llegar a un acuerdo para solucionar el conflicto. Hay una notable falta de voluntad de colocar a las cuestiones indígenas firmemente en la agenda nacional política como tópicos de primera prioridad. El Comité Nacional sobre Chittagong Hill Tracts - *Parbatya Chattagram Sankranto Jatiyo Committee* con el Cnel. Oli Ahmed el (entonces) Ministro de Comunicaciones como presidente, ha estado conduciendo las negociaciones. Ahora se ha delegado esta tarea a un Subcomité encabezado por Rashed Khan Menon, Secretario General del Partido de los Trabajadores de Bangladesh.

Lo qué es importante es que el diálogo se considera como un catalizador hacia el logro de una paz duradera en Chittagong Hill

Tracts con un pleno reconocimiento de los derechos de los pueblos indígenas.

Influencia de las fuerzas de seguridad

Aunque Bangladesh es un estado democrático, la influencia de las fuerzas armadas dentro de la región de Chittagong Hill Tracts es penetrante. Si bien existen autoridades civiles en el lugar, incluyendo a los Comisionados y los tres Concejos de Distritos que funcionan desde 1989, para todo propósito el poder real está en las manos de las fuerzas de seguridad. Su esfera de influencia y participación no se restringe a medidas de contrainsurgencia, la razón original de su presencia en la región, sino que se vuelca sobre otros aspectos de la sociedad civil. Por ejemplo, se requiere un certificado del Comandante General para entrar a algunas instituciones educativas. La autoridad de los Concejos de Distrito, en cambio, se limita a asuntos administrativos de rutina.

Aunque es difícil obtener datos estadísticos del número exacto de las fuerzas de seguridad estacionadas en el área, estimaciones locales lo calculan en una proporción de 1 a 6, es decir, un personal de seguridad por cada seis civiles. Hasta la fecha, no ha habido ninguna reducción notable en el número de las fuerza de seguridad presentes en Hill Tracts. Al contrario, hay informes que dicen que el ejército continúa extendiendo su base operacional en Hill Tracts y que se han establecido nuevos campamentos en la región, como Matiranga y Dighinala.

Un nuevo hecho de importancia lo constituyen informes bien fundados que indican que el ejército ha entrado en acuerdos de arriendo con indígenas, propietarios de tierra, hasta el año 2000. La renta ofrecida está muy por debajo del precio de mercado, y se paga una muy pequeña compensación, o ninguna, por las estructuras existentes, o cosechas y árboles frutales. Los indígenas no están en una posición para negociar términos y condiciones mejores, o negarse a aceptar el bajo arriendo.

Abusos de los derechos humanos

Se continúan recibiendo detallados informes sobre abusos de los derechos humanos por parte de las fuerzas de seguridad. El Informante Especial sobre la Cuestión de los Derechos Humanos de todas las Personas Sometidas a cualquier Forma de Detención o Encarcelamiento, en particular: Tortura y otros Tratos Cruels,

Inhumanos o Degradantes o Castigos, el Sr. Nigel S. Rodley, informa «que seguía recibiendo informes de tortura y violación por miembros del ejército y fuerzas paramilitares contra personas tribales en Chittagong Hill Tracts» (detalles en Documento de la ONU No. E/CN.4/1995/34). Uno del lo más perturbadores acontecimientos de 1995 fue la creación de un grupo organizado de jóvenes indígenas y bengalíes - *Pahari Chattrra Parishad, Pahari Gana Paris-Had-Er Shantras Protirod Committee- PCP-PGP-SPC* (Concejo de Pueblos Montañeses, Comité de los Estudiantes Montañeses de Resistencia al Terrorismo). Conocido localmente como el *Mukhosh Bahini* o Fuerza Enmascarada, por las máscaras que llevaron durante una procesión, el objetivo de sus actividades es alterar cualquier iniciativa pacífica de los pueblos indígenas hacia la autonomía regional. Y en particular las actividades y eventos del Concejo de los Estudiantes Montañeses, el Concejo de los Pueblos Montañeses, y la Federación de la Mujeres Montañesas. Se alega que este grupo se estableció como una organización opuesta a los Concejos de Estudiantes y Pueblos Montañeses, como su nombre denota.

El área principal de operaciones del PCP-PGP-SPC es el pueblo de Khagrachari, en el Distrito de Khagrachari Hill. Existen informes de hostigamiento, intimidación, ataque e incendio provocado, e incluso de la destrucción de una biblioteca local en diciembre de 1995. El 7 de marzo de 1996, se informó de un ataque a la casa del líder del Concejo de Pueblos Montañeses. Además, que durante la confrontación subsiguiente entre los indígenas que habían venido a ayudar al líder, y el *Mukhosh Bahini*, tres personas resultaron muertas, entre ellas Amar Bikash Chakma. Hubo manifestaciones contra estas matanzas sumarias en Dhaka, el 9 de marzo, y en Khagrachari, el 10 el marzo de 1996, frente a la oficina del Comisionado Adjunto.

Se informa que los miembros de este grupo están armados. Las autoridades locales, incluso el Comisionado Adjunto y la policía, muestran su incapacidad de tomar acción preventiva efectiva contra este grupo. Y se alega que el PCP PPG SPS tiene el apoyo, incluso ayuda financiera, de autoridades del más alto nivel. Algunas fuentes llegan a alegar que las fuerzas armadas están también comprometidas.

Además, continúan los informes de matanzas sumarias y detenciones forzadas por las fuerzas de seguridad estacionadas en Hill Tracts. Eventos recientes indican que la violencia y el hostigamiento contra los indígenas, en particular los estudiantes, han escalado.

El 31 de marzo de 1996, se informó que un estudiante joven llamado Kyajai Marma, fue muerto a tiros por las fuerzas armadas. Este incidente ocurrió durante una marcha de protesta del Concejo de Estudiantes Montañeses y del Concejo de Pueblos Montañeses para manifestar contra el arresto sin orden judicial, el 30 marzo, de Cha Thwai Prue Marma, un miembro del comité central del Concejo de Pueblos Montañeses.

Cuando los indígenas, incluso miembros del HSC y el HPC, salieron en procesión para lamentar la muerte de Kyajai Marma, se dice que la policía acometió a los manifestantes con bastones y se llevaron el cadáver. Una gran cantidad de personas (algunos dicen que hasta 50) resultaron heridas, tres de seriedad. Se informa que se arrestó a dos personas, incluyendo a un miembro del Concejo de Pueblos Montañeses, a saber Subhashish Chakma.

Cuestiones relativas a la tierra

La cuestión de la tierra es crucial para todos los pueblos indígenas, y los *jumma* no son ninguna excepción. Durante sucesivas administraciones se han llevado a cabo varios programas, sin consulta con los afectados, con consecuencias desastrosas para la tierra y los recursos básicos de los indígenas de Hill Tracts. El primero fue la construcción de la represa hidroeléctrica de Kaptai en los años 60. La represa sumergió 40% de la tierra de Hill Tracts, y desplazó a 100.000 personas. Las medidas de rehabilitación y reasentamiento fueron inadecuadas y la compensación ofrecida, en dinero efectivo y en tierra, groseramente impropia.

La política de transferencia de población del Gobierno (1979-84/85) mediante la cual unas 450.000 personas de la llanura fueron trasladadas a la región de Hill Tracts, tuvo por resultado el desplazamiento en masa de los indígenas, interna y externamente. Se brindó a las familias colonas tierras que legalmente pertenecían a los indígenas. Este proceso de pérdida de tierras continúa hoy.

Otra medida que exacerba más el problema de una base de subsistencia en disminución para los indígenas son los *programas de forestación* del Gobierno. En 1992 el Ministerio de Medio Ambiente y Bosques comenzó un proceso de crear Reservas Forestales en el área de Hill Tracts (Gaceta de Bangladesh, 21 de mayo de 1992). Se pondrán efectivamente 86.000 acres en el Distrito de Rangamati, 37.387 acres en el Distrito de Khagrachari y 7.389 acres en el Distrito de Bandarban fuera del uso y manejo de los indígenas.

desplazando además a las familias que viven dentro de las áreas.

El efecto práctico de los programas de forestación es una criminalización de las actividades de recolección tradicionales de los indígenas que viven dentro de las áreas designadas. El 18 de enero de 1996, el *Bhorer Kagaj* un periódico nacional, informó que en una conferencia de prensa en Rangamati el 13 de enero 1996, jefes locales y aldeanos se quejaron que los funcionarios del Departamento Forestal habían arrestado, detenido y acusado a un número elevado de indígenas por presuntos hurtos de productos forestales, muchos de ellos falsamente. Los aldeanos alegaron que muchas de las personas acusadas estaban muertas o no residían más en esa área.

Al implementar esta medida, no hubo ningún mecanismo de consulta con los indígenas o sus jefes tradicionales como se requiere en el Manual de CHT (Reglamentación 1 de 1900). Además, la Sección 64 de la Ley de Concejos de Distrito (19, 20 y 21 de 1989) establece que se requiere el permiso previo de los Concejos de Distritos para todo acuerdo y transferencias de tierras. Es pertinente notar que aunque los Concejos de Distritos han estado funcionando desde 1989, la participación de los mismos en cuestiones relacionadas con la tierra es inexistente. La tierra no está dentro de la lista de asuntos transferidos a la jurisdicción de los Concejos hasta el día de hoy. Su autoridad se limita a asuntos administrativos rutinarios, tal como informes de los empleados, etc., con pocos poderes de decisión de alguna importancia.

Las presentaciones exigiendo la cancelación de la orden de forestación al ministro pertinente fueron realizadas por indígenas y sus jefes, entre ellos el Chakma Chief Raja Devasish Roy, Dipankar Talukdar, el representante parlamentario de Rangamati y los aldeanos de Betbunia-Kashkhali. Hasta la fecha el Gobierno no ha tomado ninguna medida para encarar las preocupaciones indígenas.

El Gobierno no ha implementado todavía sus planes de realizar un estudio catastral de la región de Hill Tracts. Esta decisión causó gran preocupación entre los habitantes indígenas del área cuya causa principal de preocupación era que esto legitimaría las tenencias ilegales de tierra de los colonos que ocupan tierras indígenas. Sin embargo, el Gobierno ha declarado su intención de comenzar el estudio catastral en el Distrito de Bandarban.

Un estudio catastral conducido antes de resolver la cuestión de derechos territoriales del área, y sin un arreglo político de la situación como un todo, sería perjudicial para los intereses indígenas. Además, si es comenzado antes que los refugiados que quedan en

los campamentos en India hayan tenido la oportunidad de reivindicar sus tierras agravaría aún más una situación ya compleja.

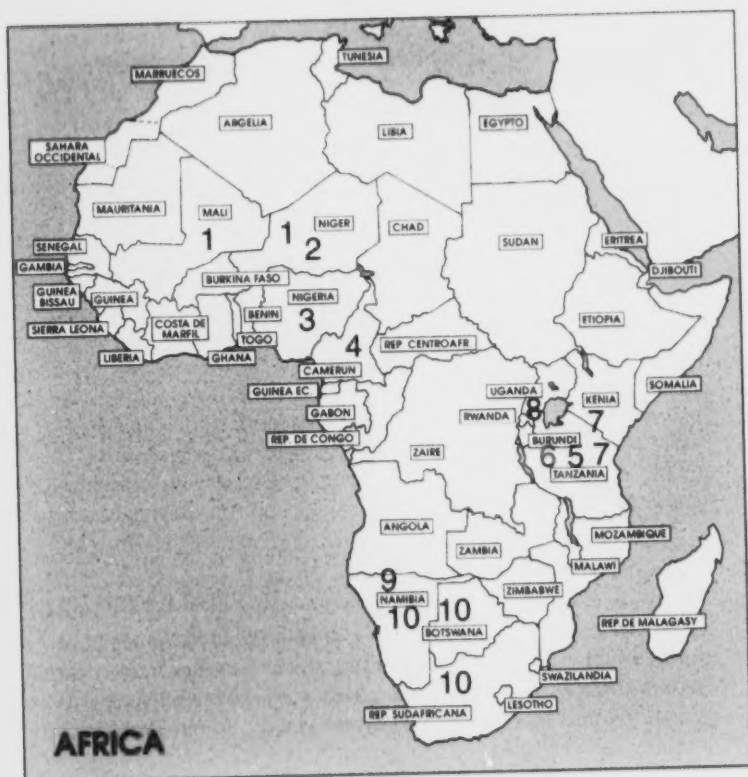
Refugiados

El gobierno de Bangladesh y de la India han realizado varios esfuerzos para repatriar a más de 50.000 refugiados que habían huido por la frontera a la India. Se hicieron intentos para repatriarlos en 1979, 1981 y 1984, pero cada confrontación violenta entre los indígenas y las fuerzas de seguridad resultaron en otra ola de personas en busca de refugio en países de vecinos. Se empezó otro proceso del repatriación en 1994, y algunas familias jumma fueron persuadidas a volver, principalmente debido a la restricción del suministro de alimentos esenciales en los campamentos.

Durante 1994 (febrero y abril) unas 1.027 familias jumma volvieron a Chittagong Hill Tracts en base a un acuerdo de 16 puntos con el gobierno de Bangladesh. Sin embargo, el Gobierno renegó de este acuerdo y lo sustituyó por un paquete más débil de 19 puntos. No se cumplieron las condiciones de este acuerdo, y los refugiados no recuperaron sus tierras, sus trabajos ni otras facilidades, tal como se había prometido. Muchos hallaron que sus tierras se habían asignado a colonos de las llanuras como parte de los incentivos del programa de transferencia de población, quienes se negaron a devolver estas tierras. Sin embargo, algunos refugiados jumma recibieron sus tierras pero se encontraron que éstas estaban dentro de la zona de colonias y por lo tanto difícil de ocupar como resultado de la tensión étnica entre las comunidades de colonos y los indígenas.

Los refugiados que quedan en India son renuentes a volver como resultado de estos informes. Aunque las condiciones en estos campamentos son espantosas, las autoridades estatales no permiten que ACNUR acceda a estos refugiados. Los refugiados y sus líderes han demandado una supervisión internacional del proceso de repatriación. Es pertinente notar que Bangladesh ha dejado que ACNUR acceda a los refugiados *rohingya* que están en campamentos de la parte sur de Hill Tracts.

Así, está claro que la situación de los jumma de Hill Tracts sigue siendo grave y que tanto sus vidas como su propiedad continúan amenazadas. Con la atención creciente otorgada a los derechos indígenas dentro del marco del Decenio de los Pueblos Indígenas, se hacen esenciales medidas efectivas para asegurar un arreglo durable y negociado de la crisis de Chittagong Hill Tracts.



1. Tuareg

2. Toubous

3. Ogoni

4. Mobororo

5. Barabaig

6. Hadza

7. Maasai

8. Twa

9. Himba

10. San/Kwe

AFRICA

MALI

Los *tuareg* de Mali y Níger se levantaron en armas contra los gobiernos de ambos países en 1990. Desde entonces, se han firmado varios tratados de paz entre los rebeldes tuareg y los gobiernos respectivos, y han sido violados, tanto por los grupos tuareg y *moor* involucrados en la rebelión, como por los gobiernos.

De una espiral de violencia interétnica a un optimismo limitado

Hacia el fin de 1994 y durante la primera parte de 1995, la situación en el norte de Mali, que había entrado en una verdadera espiral de violencia, parecía particularmente tenebrosa. Hasta entonces, el conflicto en las regiones nortenas del país había sido básicamente entre los tuareg y los moor por un lado, y el gobierno y ejército de Mali por el otro. El ejército había difundido miedo mediante varias matanzas incidentales, violaciones e incluso masacres de civiles tuareg y moor, quienes huyeron en grandes cantidades a Argelia, Mauritania y Burkina Faso, donde muchos todavía viven en campamentos de refugiados.

Durante finales de 1994/comienzos de 1995, el conflicto asumió una dimensión más étnica. Un movimiento llamado *Mouvement Patriotique Ganda Koy* («El Movimiento Patriótico de Los Dueños de la Tierra»), con estrechos lazos con el ejército malí, compuesto principalmente de *songhay*, creció en fuerza e importancia. Los *songhay* son un grupo étnico que practica la agricultura y cría de ganado en el valle del Níger, y tienen una larga historia de relaciones complejas y conflictivas con los tuareg. Los antiguos esclavos de los tuareg, los *bellah*, también se organizaron en un movimiento relativamente fuerte llamado el «*Mouvement pour l'éveil du monde Belah*» (El Movimiento por el Despertar/la alerta del mundo *Bellah*). Durante la rebelión, los *fulani* también organizaron un movimiento, llamado *Lafia*, cuya área de influencia en particular es el delta del Níger, algo al sur de las principales áreas de influencia tuareg/moor y *songhay*. Ocurrieron varios ataques y matanzas de civiles, particularmente entre moor/tuareg y



Dos niños nómadas tuareg juegan sobre un camello. Se puede ver al fondo la tienda de campaña de la familia. Foto: Gunnvor Berge.

songhay. La creciente violencia interétnica también tenía aspectos raciales y se la presentó cada vez más en los medios de comunicación de Mali como un conflicto entre «rojos» o «blancos» (tuareg y moor) por un lado y «negros» (malíes del sur, el gobierno y el ejército malí, los songhay, los bellah) por el otro lado.

Entonces, durante la primera mitad de 1995, la situación se tornó de alarmante a esperanzada. Una de las razones parecen haber sido las iniciativas a nivel de base de personas cansadas de la guerra y los disturbios. Un anciano songhay tomó la iniciativa para un encuentro local con las partes en conflictos, en el cual la población local songhay estuvo de acuerdo en aceptar que los tuareg volvieran a los mercados de los pueblos a vender sus mercancías. La idea de un acuerdo de paz tan local se extendió por la mayor parte del norte de Mali, y las reuniones restablecieron relaciones comerciales entre grupos étnicos diferentes, y el miedo y la violencia disminuyeron.

Se celebró una gran reunión en Timbuktu en julio, dónde estuvieron representados los jefes de diferentes movimientos, autoridades malíes, representantes de diferentes países que seguían el conflicto y representantes de las ONGs. El objetivo de la reunión era acelerar el proceso de paz en el norte de Mali. Los tres intereses centrales eran: 1) la reinstalación de la administración malí en el Norte, 2) el retorno de los refugiados tuareg y moor y 3) la reintegración de los rebeldes tuareg y moor al ejército de Mali.

Durante la última parte de 1995, se celebraron por lo menos 6 reuniones de conciliación locales en el norte de Mali. Todos los grupos involucrados en el conflicto estuvieron representados, y los resultados parecen prometedores. Además, la reunión contribuye con el proceso de descentralización instigado por el nuevo gobierno democrático, que actualmente ocurre en todo Mali.

El problema de los refugiados

Un punto de vista común en Mali es que no se puede hablar del retorno de la paz hasta que los refugiados no hayan retornado y hayan sido reintegrados. Al final de 1995, se decía que unos 10.300 refugiados estaban todavía en Argelia, quizá hasta 70.000 en Mauritania, y en Burkina Faso las cantidades varían de 38.000 (en mayo/ junio) a unos pocos miles.

Los refugiados vuelven de dos maneras; o bien de a poco de forma «espontánea», o como parte de los planeados proyectos de retorno del Alto Comisionado de las Naciones Unidas para los Refugiados (ACNUR). Al final de 1995, sólo unas 550 personas habían tomado parte de los planeados proyectos de retorno, los cuales para ese entonces padecían aparentemente de malversación de fondos. No obstante, se dice que hasta 2.000 individuos han

vuelto espontáneamente. El retorno de refugiados crea una situación inestable y sumamente tensa, ya que muchos retornan para hallar sus hogares destruidos o apoderados por otros, o sus pertenencias de valor en manos de sus vecinos. La política oficial es poner fin al asunto y comenzar de nuevo, al grado de que nadie debe pedir compensación por lo ha perdido, ni reclamar posesiones de otros.

NÍGER

1995 ha sido un año relativamente calmo en Níger. Se firmó un tratado de paz entre los rebeldes y el gobierno de Níger en Burkina Faso, en abril, el cual prevé un cese del fuego, desarme, mayor autonomía regional y desarrollo del norte del país, e integración de los rebeldes *tuareg* en el ejército y las fuerzas de seguridad. No obstante, en septiembre los rebeldes amenazaron con reasumir la lucha armada si el gobierno no implementaba el acuerdo. Se debería haber aprobado una ley de descentralización en julio, pero el país ha experimentado un verdadero punto muerto debido a conflictos entre el presidente, recientemente electo en forma democrática, y el vicepresidente (que se dice ha sido la causa principal del golpe de estado militar de comienzos de 1996).

Dos jefes *tuareg* de importancia, entre ellos el más renombrado jefe *tuareg*, Mano Dayak, autor de dos libros sobre la situación *tuareg*, murieron en la caída de una avioneta Cessna en Níger, en diciembre, 1995. El accidente está siendo investigado.

Hacia el fin de 1995, los *toubou*, se levantaron en armas realizando un par de ataques bien conocidos, exigiendo el control de su propio estado del desierto. Los *toubou* son otra minoría étnica nómada de Níger, que vive en el área que queda al este del área de los *tuareg* y hacia el lago Chad.

NIGERIA

1995 fue un año dramático para el pueblo *ogoni* de Nigeria sur-oriental. Habiendo ya experimentado una violenta represión de parte del ejército nigeriano en 1993-94, que causó la muerte de unas 2.000 personas, la destrucción de más de 20 aldeas y que dejó por lo menos 100.000 personas sin hogar en su propia tierra, las penurias de los *ogoni* fueron gravemente empeoradas cuando las auto-

ridades militares nigerianas decidieron ejecutar al líder ogoni Ken Saro-Wiwa y otros ocho activistas ogoni, ahorcándolos el 10 de noviembre de 1995. Los nueve fueron juzgados por haber instigado, supuestamente, al asesinato de cuatro prominentes políticos ogoni, menos hostiles al gobierno, en mayo de 1994.

Según el derecho nigeriano, los casos de asesinato han de ser juzgados en un tribunal civil, pero en este caso se estableció un tribunal militar y después de haber tenido a los prisioneros en custodia por más de ocho meses, el juicio comenzó finalmente en febrero. Tanto los observadores nigerianos como los internacionales declararon que el juicio no era más que una «pantomima», ya que apenas tenían testigos sobornados y pruebas falsificadas para mostrar. Los abogados defensores se retiraron del caso en julio para mostrar su consternación acerca de los ilegales procedimientos jurídicos y trataron de apelar a la Corte Suprema nigeriana para otorgar a los activistas ogoni un juicio justo. Sin embargo, antes de que esta moción tuviera éxito, el General Sani Abacha aprobó la decisión del tribunal de sentenciar a los nueve ogoni a muerte por colgamiento. Otras 19 personas se verán enfrentadas a los mismos cargos en 1996.

Aunque Ken Saro-Wiwa y los otros fueron ahorcados como asesinos, hay poca duda acerca de las naturaleza política de las ejecuciones. Saro-Wiwa y la organización ogoni MOSOP (Movimiento por la Supervivencia del Pueblo Ogoni) ha luchado una batalla no-violenta contra el gigante petrolero multinacional Shell y las autoridades nigerianas desde 1990, en busca de compensación por la destrucción medioambiental de su área y el reconocimiento de sus derechos políticos como minoría. Se ha extraído petróleo crudo por valor de unos 30 mil millones de dólares del área desde 1958 y los continuos incendios de gas y las explosiones regulares han hecho la vida prácticamente insostenible en varias partes del territorio ogoni. Además de esto, las personas que viven en la tierra no recibieron prácticamente nunca un solo dólar de Shell ni de las autoridades nigerianas. No obstante, estas son demandas peligrosas de reconocer para el gobierno nigeriano.

La industria petrolera es responsable del 90% de los ingresos de Nigeria por concepto de exportación y la economía nigeriana es sumamente dependiente del petróleo. Sólo en Rivers State (donde está situada la pequeña población ogoni de unas 500.000 personas) hay unas 20 minorías étnicas que enfrentan la misma degradación

medioambiental que los ogoni y que podrían con justicia exigir los mismos derechos que los ogoni si la lucha de éstos tuviera éxito. La demanda ogoni de libre determinación local, imaginada por Ken Saro-Wiwa como un estado separado bajo la federación nigeriana, no era una píldora fácil tragar para las autoridades nigerianas. Los gobernantes militares nigerianos no están listos todavía para enfrentar la inquietud creciente entre las muchas minorías étnicas nigerianas (Nigeria está compuesta de unos 200 grupos étnicos y el actual modelo federal promueve los tres más grandes, los *yoruba*, los *hausa-fulani* y los *igbo*).

CAMERÚN

En octubre de 1995 cuatro líderes de la asociación cultural *mbororo* Mboscuda fueron detenidos bajo cargos políticos de difamación contra un terrateniente adinerado de la Provincia Noroccidental de Camerún. Los cuatro fueron liberados en forma provisional en noviembre en espera de un posible juicio a principios de 1996.

El terrateniente que levantó cargos contra los líderes de Mboscuda ha explotado económicamente y políticamente durante muchos años a la población mbororo de la región. Es un individuo influyente en una región políticamente turbulenta y representa al partido político en el poder.

La cuestión es de gran complejidad y refleja la situación de los derechos humanos en Camerún en general, la situación política específica en las regiones de habla inglesa de Camerún (sólo dos provincias son de habla inglesa- el resto son francófonas) y los peligros que los ganaderos mbororo nómadas enfrentan en su lucha por adaptarse al moderno estado de Camerún.

La asociación mbororo Mboscuda se creó en 1992 para ayudar a los mbororo a encontrar respuestas viables a su posición marginada en la sociedad de Camerún. Esto incluye maneras de encarar los conflictos entre agricultores y pastores que son más y más frecuentes debido al crecimiento de la población y la demanda creciente de recursos de la tierra, y también maneras de integrar a los mbororo en la vida social y política del estado de Camerún- en cuanto a la educación, las oportunidades laborales y la creación de un foro que pueda hablar en nombre de la dispersa población nómada y semi-nómada mbororo.

Aunque Mboscuda se formó como una *asociación cultural* y no tiene ambiciones de transformarse en ninguna otra cosa, los asuntos de importancia cultural para los mbororo pueden ser fácilmente interpretados como políticos por el entorno porque tocan cuestiones sensibles para la región. Cuando los mbororo comienzan a exigir sus derechos a las pasturas y pozos de agua se convierten en una amenaza para sus vecinos sedentarizados y aún más en estos momentos porque los mismos mbororos también han empezado a asentarse. Cuando los mbororo no están más dispuestos a apoyar al partido político en el poder se convierten en una amenaza a la situación política del rico hacendado que presentó cargos contra los líderes de Mboscuda. No ayuda a los jefes de Mboscuda el hecho de que viven en una región que está caracterizada como una de las zonas más políticamente inestables de Camerún; Bamenda, la capital de la provincia, es el bastión de uno de los más importantes líderes políticos de la oposición y también del movimiento separatista anglófono. Si las autoridades logran vincular a Mboscuda a uno de los dos (sobre todo a los no autorizados separatistas) podría significar un problema serio para la organización y sus líderes.

TANZANIA

Las relaciones del pueblo con el gobierno han cambiado como resultado de la reciente democratización política en Tanzania. Esto se refleja en una creciente cantidad de casos planteados exitosamente contra el gobierno por violación de derechos tradicionales a la tierra. Para enfrentar esta amenaza, el gobierno respondió al principio con la emisión de una serie de Decretos Gubernamentales que extinguían los derechos consuetudinarios a la tierra en aquellas áreas en las cuales estos eran reivindicados. Cuando estos decretos fueron declarados ilegales por la justicia, el gobierno trató entonces de solucionar el problema de forma legislativa con la Ley de Reglamentación de la Tenencia de la Tierra (Establecimiento de Aldeas) de 1992. A su vez, esto fue declarado inconstitucional en el caso *Hon. Ministro de Justicia v. Akonaay & Lohay* (Apelación Civil No. 31 de 1994).

El fracaso del gobierno en la afirmación de su voluntad en contravención a los derechos consuetudinarios instó a la creación de una Comisión de Investigación de Asuntos Rurales, seguida de

una revisión de la política de tierras por parte del Ministro de Tierras, Vivienda y Desarrollo Urbano.

La inseguridad relativa a la tenencia de la tierra sigue siendo un problema para las culturas minoritarias de Tanzania a pesar de la nueva propuesta de política nacional de tierras. Las propuestas en favor de un mayor control público de la tierra y por una mayor apertura en la administración por parte del gobierno, realizada por la Comisión Investigadora Presidencial sobre Asuntos Rurales y endosada por un seminario sobre política nacional de tierras, no han sido plenamente cumplidas en la propuesta Política Nacional de Tierras de junio de 1995.

No obstante, la política propone el registro de los títulos tradicionales, aunque esto se confía a los Consejos Aldeanos y no a las Asambleas Aldeanas, tal como fuera recomendado por la Comisión. Esto es de particular preocupación para la gente que vive en aquellos lugares donde los líderes aldeanos no representan sus intereses, como es el caso de muchas áreas pastoras. También se refleja una intolerancia con respecto a las culturas minoritarias en las prohibiciones propuestas a la agricultura furtiva y el nomadismo.

Tales propuestas han inflamado el debate público, el cual es cubierto por una prensa libre en expansión. También ha sido estimado por la publicación de un sumario *kiswahili* del informe de la Comisión, y un grupo de pastores llamado *The Pastoral Caucus* ha logrado obtener mayor protección contra la enajenación de sus tierras mediante el registro de las áreas pastoras. Sin embargo, la nueva política tiene que ser todavía ratificada por el parlamento, y los derechos a la tierra siguen siendo la mayor preocupación de las minorías culturales que continúan sufriendo la usurpación de sus tierras. Muchos de esos casos relativos a la tierra están también asociados con violaciones de derechos humanos. Estas incluyen hostigamientos, golpizas, embargos de ganado, la exigencia sumaria de multas por «invasión de propiedad», arrestos arbitrarios y detenciones sin causa alguna.

La disputa de larga data entre los pastores *barabaig* y el gobierno sobre la ubicación de una establecimiento trigueño paraestatal en las mejores tierras de pastoreo, todavía no ha sido resuelta por la justicia. No obstante, el primero de dos casos planteados ha sido concluido exitosamente en la Suprema Corte (*Yoke Gwako & 5 Otros v. NAFCO & Gawal Farm* - Caso Civil No. 52 de 1988). El

juez falló que los barabaig fueron ilegalmente usurpados de su título tradicional por la agencia gubernamental NAFCO. Sin embargo, fue una victoria sin contenido, ya que el juez limitó su fallo a sólo seis de los 788 demandantes basándose en un argumento procesal, y les otorgó solamente una compensación ínfima. El caso ha sido apelado en base a que el juez cometió un error al no revocar el título adquirido y devolver la tierra a los barabaig.

Los líderes *maasai* están también preocupados sobre la usurpación de tierras por parte de políticos y empresarios privados, incluyendo a empresas extranjeras que están realizando lo que ha sido descrito en la prensa nacional como una «lucha por Maasailand». Esto ha sido estimulado por la liberalización de la economía, lo cual ha alentado a intereses económica y políticamente poderosos a adquirir tierra por todos los medios con propósitos comerciales. Sólo en la aldea de Nabarera, en el distrito de Simanjiro, se han adjudicado 40.000 acres de tierras de pasturas a líderes aldeanos, funcionarios públicos elevados y sus parientes. Ciertos miembros parlamentarios de los distritos de Simanjiro y Kiteto recibieron parcelas de más de 2.000 acres cada uno, así como también lo hizo la Iglesia Luterana.

Los pastores han sido también excluidos de las zonas de protección de la fauna. Por ejemplo, la expulsión de residentes *maasai* e *ilpara-kuyu* de la Reserva de Animales de Mkomazi, ha provocado una resistencia organizada y los ha llevado a plantear su caso ante la justicia (*Kopera Keiya Kamunyu & 44 Otros v. Ministerio de Turismo, Recursos Naturales, Director de la Fauna, Director del Proyecto de la Reserva de Animales de Mkomazi* - Caso Civil No. 33 de 1995).

Los residentes indígenas del Área de Conservación de Ngorongoro se quejan también de que el Nuevo Plan de Administración propuesto fue trazado sin su plena participación y por lo tanto no toma en cuenta adecuadamente sus necesidades. Están particularmente preocupados a causa de una negativa a reconocer sus derechos a la tierra, y debido a la existencia de planes para volver a imponer la prohibición referente a la agricultura a pesar del hecho de que es necesaria para su supervivencia y no ha tenido ningún impacto negativo de importancia sobre la conservación de la fauna.

En respuesta a la persecución y a la alienación de sus tierras, los grupos minoritarios han formado diversas ONG para defender sus derechos, para representar mejor sus intereses y obtener ayuda para el desarrollo comunitario. En el momento existen más de diez

de tales organizaciones, y continuamente se registran más. La mayoría han sido formadas por grupos de pastores, aunque un grupo de cazadores-recolectores *hadza*, que viven al este del lago Eyasi, al sur de Ngorongoro, están representados por la organización Mungo-wa-Mono.

Los pastores maasai y barabaig han formado PINGO, un foro de ONG pastoras, con el objetivo de crear solidaridad entre las organizaciones pastoras y fortalecer su capacidad de desarrollo comunitario, y para actuar como un grupo civil de presión sobre asuntos tales como la usurpación de tierras. PINGO considera a la democracia y los derechos humanos como componentes necesarios del desarrollo, y ha establecido un plan de acción que incluye, entre otras cosas, la participación en el Decenio Internacional de los Pueblos Indígenas del Mundo de la ONU, capacitación en el trabajo con conflictos, investigación, creación de consciencia pública, desarrollo de campañas por los derechos humanos, otorgamiento de educación, educación electoral, desarrollo de la mujer y de la juventud.

Tanzania celebró sus primeras elecciones multipartidarias en octubre de 1995. A pesar de una amplia oposición al partido que ha gobernado durante largo tiempo, Chama Cha Mapinduzi (CCM), éste obtuvo una amplia mayoría. Aunque es ampliamente reconocido que la votación no fue ni libre ni justa, la mayoría de los observadores creen que los resultados reflejan ampliamente la voluntad del pueblo. Gracias a la mayoría de la Tanzania rural, el CCM ganó una mayoría de escaños en áreas pastoras debido a que la gente votó por individuos en vez de por partidos.

El nuevo gobierno de CCM no representa un cambio de importancia con respecto al pasado, pero anuncia un enfoque renovado. Una de las acciones del nuevo presidente Mkapa, al asumir el cargo, fue declarar la guerra a la corrupción, lo cual incluye la quiebra de los sobornos judiciales. También ha nombrado 18 nuevas personas en su Gabinete, con una tendencia a la juventud y a la mayor calificación profesional que en el pasado. El Primer Ministro, Frederick Sumaye, es también miembro parlamentario por Hanang y esto puede resultar en una mejora de las condiciones para los barabaig de este distrito. Se puede esperar un avance positivo de la nueva Política de Tierras debido al nombramiento de un nuevo Ministro de Tierras, Gideon Cheyo, quien es un respetado funcionario público de mucha experiencia.

KENIA

Kenia ha sido durante largo tiempo centro de la crítica internacional debido al lamentable estado de la situación relativa a los derechos humanos y a la falta de un buen gobierno. Muchos de sus excesos han sido obviados hasta hace poco por parte de las agencias de ayuda a causa de los estratégicos vínculos comerciales y políticos del país con Occidente. Causa particular preocupación la manipulación política del poder judicial en servicio de los intereses del gobierno, y la persecución de los individuos y grupos que denuncian la corrupción o se oponen al mismo. Se ha visto también implicado en las expulsiones forzosa de los residentes del valle Rift, y en hostigamientos a refugiados somalíes.

De la misma forma que Tanzania, Kenia ha también cedido frente a la presión internacional en favor del pluralismo. En ambos países, los partidos gobernantes han sido reelectos, debido en gran parte a la falta de unidad de los partidos de oposición. Desgraciadamente, el gobierno de Kenia ha interpretado la reafirmación de su mandato como una aceptación de la represión de la oposición mediante la persecución y detención de los oponentes. Recientes informes sugieren que los abusos físicos y la falta de atención médica a los detenidos constituyen una característica del tratamiento de los detenidos políticos.

Kenia está dividida por el valle Rift, el cual está principalmente ocupado por grupos pastores, ocupando los *maasai* las llanuras meridionales que hacen frontera con Tanzania. La inseguridad de la tenencia de la tierra de los pastores keniatas tiene su origen en políticas que tienden a una privatización de la propiedad en el marco de una economía de mercado libre. Esta se compone de un mercado de tierras basado en el principio de «oferta y demanda». La subdivisión de las tierras comunales de pastura ha permitido que la tierra de alta calidad sea adquirida por gente adinerada y bien conectada en detrimento de los residentes indígenas.

La subdivisión de las tierras del Trust Iloodoariak (146.000 hectáreas de tierras de pastura *maasai* al pie de las elevaciones de Ngong, a unos 80 kilómetros al suroeste de Nairobi, en la Provincia de Rift Valley), por ejemplo, tuvo como resultado que 362 personas no residentes adquirieron título a 20.000 hectáreas, excluyendo a 1.200 residentes. Entre los beneficiarios se encuentran funcionarios locales, miembros de la élite política y comercial y sus familias, tales como la esposa de un ministro del gobierno.

Otro caso de actualidad es el de un grupo de *maasai loita*, el cual está en conflicto con el Consejo del departamento de Narok, sobre el estatus de la selva sagrada loita (*Naimina Enkiyo*) en el suroeste del país. El Consejo, apoyado por el parlamentario local y el Ministro de Gobierno Local desean abrir la misma al desarrollo turístico. El grupo ha constituido el Trust Loita para la Conservación de Naimina Enkiyo, para preservar la integridad natural de la selva mediante la obtención de su administración legal. Queda por verse si la cuestión puede ser resuelta sin ninguna interferencia gubernamental.

La exitosa resolución de estos casos y las perspectivas futuras de los pueblos indígenas de Kenia depende en gran medida de si el gobierno de KANU puede ser forzado a respetar la ley vigente y si tolera a la oposición calificada. Los pastores pueden considerarse afortunados de verse favorecidos por la lealtad del Presidente con respecto a los residentes del valle Rift. No obstante, la corrupción a alto nivel puede todavía frustrar los derechos de los grupos vulnerables. Por ejemplo, las apelaciones directas de la comunidad Iloodoariak al Presidente tuvieron como resultado que el Ministro de Justicia solicitara una legislación apropiada para resolver la disputa de tierras sin recurrir a la justicia. Inmediatamente después, un ministro involucrado en el asunto dio instrucciones a un abogado particular para la preparación de una legislación alternativa que permitiera al gobierno mostrar voluntad, pero no hacer nada en realidad por la gente de Iloodoariak. Queda por verse cuál legislación triunfará.

RUANDA

«Soy viuda... decidimos escapar apenas oímos el ruido de disparos. Huimos a Ruhengiri. Los problemas comenzaron cuando regresamos del exilio. Muchos de los nuestros fueron arrojados a la cárcel acusándonos de ser miembros de la *interahamwe* (milicia juvenil)... deseábamos que retornaran porque los *twa* son poco numerosos, y por lo tanto necesitábamos que volvieran. Nuestra alfarería no nos suministra suficiente dinero para sobrevivir... Hace mucho tiempo nuestros abuelos iban de caza y nos traían algo de carne. Los *twa* recibían ayuda de reyes, como Rudahigwa. Pero esto cambió ahora... nuestras condiciones de vida son muy precarias. Quizás esto sucede porque somos *twa*.»

Este testimonio fue recogido de una anciana twa de Tambwe, Ruanda, en junio de 1995, recordando sus experiencias de la guerra. Entre abril y julio de 1994, casi 1 millón de hombre, mujeres y niños fueron brutalmente asesinados en Ruanda. Eran principalmente *tutsi*. Esto implica un 14% de la población y la cifra de muertes continúa en ascenso mientras que el país aguarda, con desesperación, a que el mundo internacional les ayude en su afán de justicia.

En los informes sobre las masacres, los medios de difusión internacionales no han mencionado a los twa, la tercera clase, casta o escalón inferior de la sociedad de Ruanda. Esta misión puede ser atribuida en gran medida a la situación de los twa en la sociedad de Ruanda: una minoría, tanto numérica como políticamente. Más específicamente, la tendencia es percibir a los twa como elementos externos al discurso político de Ruanda, el cual concentra su atención en un conflicto entre dos facciones: la «hutu» y la «tutsi». Esto se vio reflejado en los medios de difusión internacionales. En la medida en que se recoge más información, se torna cada vez más evidente que los twa han sido directamente afectados por la guerra y en algunos casos han sido blanco de la misma como comunidad.

Los twa son uno de los pueblos «pigmeos» del África central y son reconocidos como la población autóctona del área boscosa ahora conocida como Ruanda. Son *banyarwanda*, y comparten la lengua, la religión, y la cultura de los ruandeses como un todo. Sin embargo, su relación con otros grupos colonizadores, los *hutu*, los *tutsi* y los europeos ha consistido en una pérdida constante de su hábitat natural y de la integridad de su estilo tradicional de subsistencia como cazadores-recolectores.

Hasta hace poco, algunos twa todavía vivían de la caza y la recolección en las pocas selvas que quedan en Ruanda. Pero aparentemente, todos, sin excepción, han sido forzados a asentarse en poblados sin que se les haya ofrecido alternativas adecuadas o compensación por la pérdida de sus medios de subsistencia. Algunas de las expulsiones más importantes de twa ocurrieron en los últimos 35 años como resultado de los mal informados y corruptos conservacionistas occidentales. En 1993, el Movimiento para los Bosques Tropicales (WRM) testimonió la existencia de la última de estas comunidades cazadoras que vivían en la selva de Nyungwe. El uso de la selva como terrenos de entrenamiento militar durante la reciente guerra marcó su expulsión final y la pérdida de su estilo tradicional de vida.

Un trabajo de campo realizado en 1993 por WRM y APB (Asociación para la Promoción Batwa), confirmó la difícil y marginal situación de los twa. Los sucesivos gobiernos que han existido en la historia reciente de Ruanda no han brindado a los twa ninguna seguridad sobre la tierra que les fue otorgada. El robo de tierras y la expulsión forzosa son todavía acontecimientos comunes. Ésto ha tenido como consecuencia que los twa entren cada vez más en relaciones de dependencia con sus vecinos, relaciones que son generalmente caracterizadas por el abuso. Otras fuentes de ingresos, como la alfarería, no brindan una alternativa de subsistencia confiable. Muy frecuentemente los twa se ven forzados a mendigar o, en caso contrario, a vivir al borde de la inanición.

Los twa constituyen un caso extremo de antiguos cazadores-recolectores sometidos a una severa discriminación. La base de esta discriminación encuentra sus raíces en la historia y se manifiesta a nivel económico y cultural. El acceso a los recursos vitales es restringido y los twa son víctimas de una segregación social y un estereotipo racial que los cataloga como inferiores o infrahumanos. Los años de discriminación institucionalizada han dado a los twa un complejo de inferioridad y un sentido de desaliento.

A pesar de ésto, los twa son únicos en el sentido que fueron los primeros en establecer una organización «pigmea» legalmente registrada en el África central, fundada y dirigida por pigmeos.

Antes de 1991, nunca había existido una asociación para los twa, dirigida por los mismos twa. Han habido una serie de asociaciones formadas para ayudarlos, pero siempre fueron dominadas por personas no-twa, de compromisos muy variables en su ayuda a los twa. Después de que el Frente Patriótico de Ruanda (RPF) invadiera a Ruanda en 1990 y luego de la liberalización política impuesta al régimen de Habyarimana por los Acuerdos de Arusha, algunos twa instruidos se juntaron para formar la Asociación para la Promoción Batwa (APB). Los twa no tenían medios efectivos para presentar su verdadera problemática a un nivel regional y nacional, y los medios de difusión y las agencias nacionales tendían a ignorar sus dificultades. Los objetivos de APB eran trabajar conjuntamente con los twa de todas partes de Ruanda y examinar la situación socioeconómica de su pueblo. De esta manera, la APB podría crear un foro y un centro informativo que les permitiera llamar la atención hacia la desastrosa situación y la falta de representación de los twa, y, al mismo tiempo, ejercer presión por los derechos twa.

Contando con recursos muy limitados, establecieron una serie de proyectos para elevar el grado de consciencia de las necesidades twa y para brindar asistencia práctica a los mismos. Además, se establecieron contactos regionales e internacionales y sus representantes viajaron al extranjero para asistir a conferencias.

En 1993, WRM, respondiendo a una invitación de APB, envió representantes a Ruanda para ayudarlos en el desarrollo de su capacidad como organización de base verdaderamente representativa. Un equipo de twa, capacitados en métodos de trabajo de campo, viajó por toda Ruanda con los representantes de WRM, realizando un relevamiento socioeconómico, y haciendo contacto con representantes locales.

Estos esfuerzos fueron frenados por el conflicto genocida de 1994. El funcionamiento de las organizaciones twa existentes fue alterado por la dispersión y la muerte de sus miembros. Las comunicaciones con el mundo exterior cesaron, hasta que llegaron noticias de unos pocos sobrevivientes hasta organizaciones como WRM y UNPO. Con la asistencia de UNPO, Charles Uwiragiye, de APB, pudo realizar un estudio preliminar de la situación de los twa en las aldeas restantes en los campamentos fuera de Ruanda, en el período inmediato de posguerra. Health Unlimited realizó también una investigación en diciembre de 1994, para evaluar las necesidades inmediatas de los ruandeses y para considerar la necesidad de concentrar un proyecto específico sobre los twa. Mientras tanto, WRM realizó preparativos para un proyecto de seguimiento, cuyo objetivo sería visitar las mismas aldeas en 1993 para obtener datos fundamentales sobre las experiencias twa en la guerra y para reconstruir la organización representativa twa. La investigación tuvo lugar en mayo-junio de 1995. Los resultados de la misma están brevemente sintetizados a continuación.

El efecto de la guerra sobre los twa de Ruanda

Con la firma de los Acuerdos de Arusha de 1990 y la aceptación del estado democrático multipartidario, el partido presidencial y su cómplice, CDR, en vista de la nueva competencia, comenzaron a realizar un esfuerzo constante de obtención de apoyo popular y, por lo tanto, votos. Ofreciendo incentivos materiales y protección política, los miembros del partido alentaron a otros a incorporarse a sus filas. Las comunidades grandes e influyentes fueron identificadas como objetivo de la campaña, incluyendo algunas comunidades twa.

Varios twa de las comunidades visitadas, tales como Rutonde, expresaron haber experimentado severas intimidaciones para incorporarse al MRND (Movimiento Republicano Nacional para la Democracia y el Desarrollo), y cuando se negaron a hacerlo recibieron amenazas de muerte. Dos grandes comunidades fueron visitadas y persuadidas a incorporarse al MRND: Shirongi, dónde UNPO informa que un twa fue muerto a golpes por usar un sombrero indebido; y Masango, dónde los twa fueron sobornados para incorporarse a la *interahamwe*. Esta última es una comunidad, fundada en 1993, cuando se experimentaron niveles insólitos de violencia y encarcelamiento por parte del gobierno local. La mayoría de los twa tenían muy poca noción sobre política y asuntos de actualidad en el país y eran fáciles de manipular debido a la pobreza y la discriminación.

Durante los períodos de creciente tensión tales como el golpe de estado de Burundi, cuando muchos hutu fueron desplazados y buscaron refugio en las áreas fronterizas de Ruanda, las comunidades twa, como la de Ntili no estaban capacitadas para defenderse y, por lo tanto, fueron las primeras en ser atacadas. La comunidad twa fue atacada en la plaza del mercado con barras de hierro, sus vasijas fueron destruidas y cuando volvieron a sus hogares se encontraron con que la aldea había sido incendiada.

Durante toda la guerra, los instigadores del genocidio manipularon a los medios de difusión mediante el uso de propaganda. Los twa no se salvaron de ésto. Fueron acusados de aliarse con la raza invasora de los tutsi, y otros ruandeses fueron alentados a tomar la ley en sus manos y castigar a los twa. Emisiones radiales de Radio Mille Collines, en 1995, dando mensajes de este tipo, condujeron a una ola de ataques contra las comunidades twa.

BOTSWANA

En el gran desierto del Kalahari, en Botswana, uno se enfrenta a la espantosa visión de animales salvajes muriendo en los altos cercos, instalados en el interés de la industria ganadera de Botswana para evitar la extensión de la fiebre aftosa entre el ganado. Cercos enormes que corren de norte-sur y este-oeste en el Kalahari y que impiden eficazmente a los animales salvajes seguir sus rutas de desplazamiento. El *gnu*, el *hartebeest*, el *antilope eland*, todos mueren de sed, desplazados de sus territorios tradicionales y rutas directas

a los pozos de agua por los cercos. Funcionarios del gobierno alardean que después de la Gran Muralla China los cercos de Botswana son los objetos artificiales más visibles desde el espacio. «Derramé grandes lágrimas cuando vi las muertes a lo largo del cerco veterinario de Kuke, de jirafas, *gnu*, *hartebeest*, en decenas de miles,» dice a Roy Sesana de la Reserva de Animales de Kalahari, expresando los sentimientos de los indígenas *kwe* del Kalahari.

Los nómadas *kwe* del Desierto del Kalahari conocen instintivamente la catástrofe. Son los habitantes originales del Kalahari. La situación de la matanza de animales salvajes en el Kalahari refleja muy claramente el hecho que los pueblos indígenas deben participar en la búsqueda de soluciones a los problemas medioambientales. La vida en equilibrio y armonía en el entorno desértico, durante más de 40.000 años, ha demostrado la experiencia inestimable en conservación de los *kwe* y su conocimiento amplio y profundo del manejo de recursos naturales. El gobierno de Botswana ha preferido ignorar ésto y en los 30 años de independencia ha sido el único responsable por la disminución de más del 98% de la fauna de la Cuenca del Desierto de Kalahari.

La Reserva de Animales del Kalahari Central

Hoy la industria turística ha significado una alza del valor de mercado de las últimas tierras ancestrales restante de los *kwe*, las cuales constituyen la Reserva de Animales del Kalahari Central (CKGR), hogar de los *g/wikwe* y *g//anakwe*. Lo que el gobierno de Botswana antes calificaba de desierto inhabitable e indeseable, ha llegado a ser ahora bienes raíces de primera clase para la explotación económica. La supervivencia y los derechos humanos de los *kwe* se venderán al mejor postor. Hasta la fecha, los *kwe* han sufrido graves violaciones de derechos humanos bajo las políticas de Botswana de reasentamiento de sus comunidades tradicionales.

A causa del decreto del gobierno, eufemísticamente descrito como «reducción de servicios,» las mujeres, niños y familias *kwe* enfrentan la sed y la inanición. Se les niega servicios básicos como la provisión de agua, y se violan sus derechos indígenas de recolectar alimentos tradicionales del monte, recoger leña, cazar y tener acceso al agua potable. Su derecho a la caza de subsistencia se ha convertido en base de falsas imputaciones y cargos de caza furtiva, conduciendo a un acrecentamiento de casos documentados de castigos corporales, tortura y detención arbitraria, ya que los hom-

bres kwe son arrestados por «caza furtiva» de animales salvajes para alimentarse. Como lo expresó Aron Johannes, representante de la organización indígena Pueblos Originarios del Kalahari: «Hoy día, cuando los kwe tratan de cazar en su tierra tradicional, tropiezan con los odiosos cercos o peor todavía, con los vigilantes de la reserva quienes los arrestan y torturan por caza furtiva.» Los kwe notan cada año, al llegar más y más personas hasta que no haya lugar para ellos dentro del CKGR, que cada vez se secan más pozos de agua sindicados para proveer agua para el ganado, que las manadas de animales salvajes reducen su número de individuos, y que más monte se desertiza. Para un pueblo cazador y forrajero, cada disminución de la biodiversidad significa una «pequeña muerte» - cada extinción significa vacío en su ser y en sus vientres.

El CKGR cubre alrededor de 52.000 km². Vivían alrededor de 5.000 kwe en el área pero ahora quedan sólo alrededor de 3.000. La población total kwe de Botswana es de 50.000 a 70.000. En 1986 el gobierno decidió desahuciar a los kwe de la Reserva, sin embargo, ésto se impidió gracias a protestas masivas. A partir de 1992 comenzaron a aparecer de nuevo amenazas de desplazamiento forzoso. Y ahora, en 1996, la situación ha llegado a ser muy seria ya que el gobierno parece estar planificando seriamente un desplazamiento forzoso de los kwe. Los últimos kwe que quedan en el CKGR arriesgan el destino de ser forzados a vivir en los poblados miserables y pauperizados, como trabajadores rurales mal pagados, o en las áreas marginales de los pueblos.

El control de la tierra ancestral es la cuestión más importante que enfrentan hoy los kwe. Es esencial una voluntad política e imaginación de parte de los gobiernos para ver los desafíos planteados por los pueblos indígenas como oportunidades en lugar de constreñimientos. El viejo enfoque que favorece la integración a una cultura dominante no es aceptable desde un punto de vista kwe. Sus costos humanos, sociales y económicos no pueden ser negados o ignorados.

Organización indígena

Al enfrentar la amenaza de extinción, la dirección de las bases kwe de Botswana se juntaron en 1992 en una voz política que pudiera controlar el destino de su cultura y desarrollo. La organización que crearon se llama *Kgeikani Kweni*, o Pueblos Originarios del Kalahari. En octubre de 1993, Pueblos Originarios del Kalahari (FPK)

fue legalmente registrada como una organización no gubernamental, la primera y única organización controlada por los kwe para servir las necesidades de su pueblo. Los miembros del consejo directivo son electos entre los *nharo*, *tsaókwe*, *g//ankwe*, *g//wikwe* y *#au//ae*.

Su misión es asegurar la supervivencia del pueblo kwe, ayudando a las comunidades kwe a obtener control sobre su destino cultural, social y económico. El propósito de FPK es: abogar por los derechos indígenas garantizados al pueblo kwe según el derecho internacional; desarrollar la capacidad de dirección de hombres y mujeres kwe; y proveer un desarrollo culturalmente apropiado. En breve, las metas son:

- ser reconocidos como un pueblo diferenciado y asegurar la propiedad de los territorios ancestrales kwe restantes.
- ser un pueblo capaz de crear nuestros propios planes de desarrollo sustentable.
- establecer un centro que pueda:
 - comunicar, intercambiar y distribuir información entre nuestros diferentes pueblos, así como con otros Pueblos Originarios del mundo.
 - coordinar, informar y registrar la información sobre condiciones específicas locales de los n/oakhwe esparcidos por todo el «*Gomkgei*»- la Cara de Arena- y vincularlos.
 - coordinar la cartografía de la distribución territorial de «*tsgores*» (pozos de agua), ya que son los centros de nuestras tierras ancestrales.
- crear un Concejo Nacional de los n/oakhwe mediante representantes debidamente electos que trabajen por el reconocimiento de la tierra y los derechos humanos de nuestro pueblo, y lograr la libre determinación a través del mismo.

FPK trabaja actualmente muy activamente para impedir el traslado de los kwe del CKGR.

El moderno estado colonizador y la vigorosa economía monetaria son una amenaza seria para los kwe. Con el descubrimiento de diamantes y con el advenimiento del acceso favorecido al mercado de carnes de la Comunidad Europea, el desarrollo en Botswana nunca ha mirado hacia atrás. El ganado ha asumido una importancia económica más destacada que cualquier parte del ecosistema natural. Los barones del ganado, los intereses mineros del diamante

te, y elementos de la clase media y de la elite política constituyen poderosos intereses en favor de un crecimiento desarrollista que no respeta la naturaleza ni los habitantes indígenas. El gobierno ha aprendido a comercializar el medio ambiente en términos resplandecientes, desacreditando a sus críticos, y catalogando a la mortalidad animal (tal como los 50.000 gnues en el Lago Xan que murieron de inanición) como un fenómeno natural debido a las recurrentes sequías prolongadas, a las cuales los animales están adaptados.

Así como los funcionarios de E.E.U.U. y Canadá son conocidos por culpar a la pesca de subsistencia nativa de pequeña envergadura por la disminución del salmón, sus contrapartes de Botswana han sugerido que los arcos y flechas de los kwe hacen una mella seria en las poblaciones del antílope *eland*. La ONG más conocida del país en el frente conservacionista, la Sociedad para la Conservación del Kalahari, ha sido cooptada, e incluso el movimiento internacional medioambiental, una fuerza a tener en cuenta en los asuntos africanos, han sido de más ayuda a la iniciativas gubernamentales del turismo de la fauna que a los kwe, cuya cultura está basada en la vida entre los animales en lugar de segregarlos en reservas de animales.

Pero considerando que se permite limitar la libertad de la fauna de Botswana en interés del rédito del turismo, el gobierno insiste que los kwe deben ser arreados hacia poblados donde puedan «desarrollarse» (un eufemismo, como en el resto del mundo colonialista, que significa alcoholismo, aculturación, ociosidad, explotación económica y sexual).

La marginalización de los Pueblos Originarios de Botswana se refleja de muchas maneras, pero quizás más obviamente en el desfile constante de nombres erróneos aplicados a ellos: *bushmen* (terminología del *apartheid*, del *Bosjemannitjes* holandés por orangután). *Basarwa* (su estereotipo dentro de la sociedad *tswana* dominante, burlando la falta de tierra y ganado y resumido en el dicho «usted basarwa, usted no vale nada.» *San* (una denominación antropológica que ha ganado aceptación a pesar de su no reconocimiento por parte de los kwe). Y más recientemente *Moradores de Areas Remotas* (término burocrático que se traduce en los diversos idiomas kwe como «aquellos que están en lo profundo de lo profundo» sugiriendo muerte y entierro a algunos kwe, «como si su tierra cubriera la nuestra.» N/oakwe, significando el Pueblo Rojo, es mejor pero no es fácil de pronunciar sin ser oído. Kwe se

está aceptando. Debe notarse que el gobierno no reconoce oficialmente a los kwe entre las tribus de Botswana por ningún nombre. Pero para los kwe y para el resto del género humano, la supervivencia depende de la comprensión del mensaje kwe. El planeta Tierra es hogar a casi 6 mil millones de seres humanos, los consumidores más voraces de recursos que se conoce. Los kwe no están mejor preparados que cualquier otro grupo para entender el pleno impacto de esos miles de millones y sus tecnologías en el ambiente natural. Pero saben que cada año, el medio ambiente que los mantuvo durante siglos, tiene menos recursos para compartir con ellos. Lo sienten en sus estómagos, y en todo su ser cuando hacen una pausa en los patéticos poblados para preguntarse «si dios ha cometido una equivocación.»

«Se ha desplazado a diez mil de entre nosotros, sin alternativas. ¿Cómo vamos a vivir? Preguntamos a todos gobiernos, ¿es ésta vida para nuestro pueblo?»

NAMIBIA

Después de que Namibia obtuvo su independencia en 1990, SWAWEK (Corporación de Agua y Electricidad del Africa Suroccidental) se interesó nuevamente en los viejos planes referentes al potencial hidroeléctrico del río Kunene, como una solución a las futuras necesidades energéticas de Namibia y para lograr una independencia de la importación de energía de Sudáfrica. Un consorcio escandinavo obtuvo el contrato para realizar los estudios previos de viabilidad y el informe de viabilidad del proyecto. La represa propuesta inundará un área de 250-350 km² que constituye actualmente una parte esencial de las pasturas y los recursos de agua de los aproximadamente 5.000 *ovahimbas* que viven en esta área.

Los *ovahimbas* son pastores seminómadas que han vivido en el Noroeste de Namibia en la parte norteña de la región de Kunene desde la gran migración *bantu* en el siglo XVI y XVII. Se llama a esta región a menudo «el último desierto de Africa», lo cual refleja lo remoto de la región y el estilo tradicional de vida de los nómadas *ovahimbas*. Los *ovahimbas* fueron aislados durante la ocupación sudafricana y por lo tanto gozaban de autodeterminación y pudieron mantener viva su cultura tradicional. Durante la guerra de independencia apoyaron a Sudáfrica, y algunos de ellos todavía quieren que Namibia retorne a Sudáfrica. Esta actitud tiene que

entenderse en el trasfondo de la relativa autodeterminación que gozaban y el apoyo económico que obtuvieron del ejército sudafricano durante la guerra. Después de la independencia, los ovahimbas perdieron algo de su autodeterminación y algo del apoyo económico que obtenían del ejército sudafricano. Los *himbas* dicen que los *ovambos* nunca han tenido incidencia en la región de Kunene y no hay ninguna razón para que lo comiencen a hacer ahora. Con estos antecedentes, se ha desarrollado el conflicto sobre el propuesto proyecto de represa hidroeléctrica.

El gobierno de Namibia considera a la represa de Epupa como una solución para las necesidades energéticas futuras de Namibia. El proyecto es el mayor proyecto industrial de Namibia después de la independencia, y el gobierno ha puesto mucho prestigio en él. Namibia necesita resolver la situación energética que hoy se basa en la planta energética de Ruacana que, debido a las reducidas capacidades de almacenamiento, sólo puede funcionar a plena capacidad durante la estación lluviosa, y la planta Eck, a carbón, la cual es sumamente cara debido a los altos precios de importación y transporte de carbón de Sudáfrica. En la estación seca, Namibia no tiene otro remedio que importar el 50% de su energía de Sudáfrica a precios cada vez más elevados. La oposición no discute la necesidad de un nuevo suministro de energía, sino la viabilidad económica del proyecto Epupa y las consecuencias medioambientales y socioeconómicas del proyecto.

Las críticas fundamentales están basadas en:

- 1) Los pronósticos de las futuras necesidades energéticas de Namibia, cuando la industria minera, que es el más grande consumidor de energía, decline.
- 2) La necesidad de exportar energía de Epupa a Sudáfrica para hacer el proyecto económicamente viable, cuando los pronósticos de Sudáfrica no muestran ninguna necesidad de importación de energía.
- 3) El período funcional de Epupa será de sólo 20-30 años debido a la sedimentación.
- 4) Los impactos ecológicos sobre un medio ambiente único en una región semidesértica.
- 5) La necesidad de una investigación más amplia sobre posibles soluciones de energía alternativa en Namibia.

- 6) Los impactos en la sociedad himba y sus derechos, debido a la constitución de Namibia y los derechos de las Minorías declarados por la ONU y la OIT.

En la fase inicial, el gobierno no se mostró dispuesto a dar información a la comunidad himba, pero durante 1994-95 ésto ha mejorado y se ha acordado una reunión pública en Windhoek así como en la región de Kunene. Los jefes ovahimbas asistieron a la última, pero debido a un conflicto de larga data entre los mismos himbas, algunos de los jefes se expresaron en favor de la represa junto con la comunidad empresarial, la cual ve al proyecto Epupa como una oportunidad para el desarrollo de la región. Los himbas que viven a lo largo del río Kunene han quedado prácticamente solos en su resistencia contra el proyecto Epupa. No hay virtualmente ninguna organización que apoye su punto de vista o que defienda su causa. Como un anciano himba decía, «antes luchábamos con lanzas y armas, hoy esta lucha por la supervivencia se libra con papel y pluma. Nosotros, los himbas no tenemos educación ni conocimientos sobre esta manera de luchar, y por eso ya hemos perdido la lucha.»

El próximo paso es el informe final de viabilidad que llevará a la decisión final relativa a la realización del proyecto por parte del gobierno. Se espera que este informe será finalizado para fines de 1996. Entonces el gobierno decidirá si se examinarán otras soluciones energéticas y si se tomarán en consideración los impactos medioambientales y socioeconómicos sobre la comunidad himba.

Uno de los problemas principales son el rechazo del gobierno a reconocer a la sociedad himba como un grupo étnico/minoritario porque ésto significa otorgar más poder a los himbas para luchar por sus derechos a la tierra, debido a las convenciones internacionales. El gobierno alega que un reconocimiento de los himbas como un grupo étnico con derechos especiales es una prolongación de la política del apartheid sudafricana. De cualquier modo, la realidad es que los ovahimbas son un grupo minoritario que tiene que ser tomado en consideración si esta cultura única va a sobrevivir en una moderna sociedad en Namibia en vez de terminar en la pobreza, sin medios u oportunidades de supervivencia, en lo más bajo de la pirámide social, tal como sucede con frecuencia con los grupos minoritarios de otros lugares de África u otras partes del mundo.

Bosquimanos (san, ju'hoansi)

Mucho ha cambiado durante los dos años pasados para los *ju'hoansi* de Otjuzundjupa Oriental, Namibia. Mientras que, al mismo tiempo, mucho sigue inalterado. Mediante el establecimiento de una nueva estructura administrativa, los *ju'hoansi* de Nyae Nyae son ahora plenos participantes del proceso de desarrollo y son cada vez más capaces de responder a los desafíos que plantea el desarrollo, al mismo tiempo que mantienen su integridad cultural. Después de los desafíos planteados en septiembre de 1994 con respecto a su relación con la Fundación Nyae Nyae para el Desarrollo, ha surgido una relación nueva, en la cual se reconoce y respeta a los derechos de los *ju'hoansi* a conducir el proceso de desarrollo.

Junto con esta nueva relación ha llegado una mayor comprensión y control del proyecto de Manejo de Recursos Naturales (LIFE), un control que será impulsado por la introducción inminente de una legislación conservacionista por el Gobierno de Namibia. La legislación conservacionista posibilitará a muchos grupos comunales beneficiarse con los alimentos provenientes de su fauna y de su flora, así como también permitirá que la comunidad controle y dirija el turismo en su «área de conservación». Esta es una opción para el desarrollo que ha puesto a los *ju'hoansi* a la vanguardia en Namibia.

Estos cambios están recogiendo enormes beneficios para los *ju'hoansi* de Otjuzundjupa Oriental. Pero, si bien están logrando una posición establecida en el seno de la sociedad de Namibia, continúan enfrentando muchos de sus problemas tradicionales, incluso, constantes intentos de los pastores *herero* de introducir su ganado al área de Nyae Nyae. Igualmente, muchas agencias, tanto gubernamentales como del sector privado, no reconocen a la cooperativa de los agricultores de Nyae Nyae como la autoridad tradicional de Nyae Nyae. Esta falta de respeto de los derechos *ju'hoansi* desgasta la energía de la organización y colide con su capacidad para continuar conduciendo el proceso de desarrollo.

Las comunidades de Bushmanland Occidental sufren también rápidos cambios debido al fin inminente del papel de ELCIN como la agencia que lleva a cabo el programa de reasentamiento de los *bosquimanos* despojados de sus tierras. El Ministerio de Tierras y Reasentamiento se hará cargo del programa y lo manejará directamente. La competencia por la tierra limitada se convertirá seguramente en un importante tema, debido a la presión de los



Jefe himbra, Namibia. Foto: Thomas Tvedt.

pastores herero provenientes de Botswana, quienes también están siendo reasentados. Queda por verse si las comunidades de Bushmanland Occidental son lo bastante fuertes como para conservar su tierra.

Los problemas que enfrentan las comunidades de Bushmanland Occidental son también una amenaza constante a la seguridad de las comunidades *san* de Caprivi Occidental, ya que también enfrentan la usurpación de su tierra por parte de otros pueblos indígenas de la región. En particular son desafiados por los *mbukushu*, quienes consideran que las comunidades bosquimanas son fácilmente intimidables y desplazables de su tierra.

En otras áreas de Namibia, los *san* continúan experimentando las peores condiciones de vida. En todos los indicadores sociales se ubica a los *san* en las categorías más bajas y continúan sufriendo la discriminación de todos los otros grupos de Namibia. Los *san*, debido a la falta de tierra, pobres resultados educativos y actos generales de discriminación, están lejos de ser verdaderamente integrantes, en pie de igualdad, de la nación de Namibia.

Los esfuerzos para encarar las dificultades generales de los bosquimanos de Namibia son fragmentarios y mal coordinados. Muchas agencias actúan aisladas las unas de las otras, y así la duplicación de servicios y ayuda es endémica. En respuesta a esta situación y debido a la menor necesidad de brindar ayuda a los *ju'hoansi* de Otjuzundjupa Oriental, la Fundación para el Desarrollo de Nyae Nyae, de Namibia, (la ONG más antigua de apoyo a los derechos bosquimanos), está reconsiderando su papel y está dispuesta a asumir la responsabilidad general para apoyar el desarrollo bosquimano en toda Namibia.

SUDÁFRICA

La cuestión de grupos indígenas o culturas olvidadas que buscan sus raíces es un tópico muy actual en Sudáfrica. Esto resulta de la nueva Constitución que provee el derecho a participar en una cultura de opción propia. Otra razón es el derecho a tener jefes tradicionales como una medida para salvaguardar las culturas. Estos jefes tendrán una participación a nivel nacional, provincial y local.

Los grupos indígenas pueden ser percibidos también como pueblos cuyas culturas han sido marginadas en Sudáfrica, o lo están siendo. Actualmente el pueblo *griqua* exige el reconocimiento de sus jefes

y la restitución de sus tierras ancestrales. El pueblo griqua hoy vive esparcido por muchas partes de Sudáfrica, mientras que sus tierras ancestrales están principalmente en la Provincia Septentrional del Cabo.

El pueblo *outeniqua* del Cabo Occidental exige también el reconocimiento de sus jefes tradicionales y de su identidad cultural. Como los griqua, son ramificaciones del antiguo pueblo *khoekhoen* de Africa del sur. Otro remanentes de los *khoekhoen* son lo *korana* y los *nama* o *naman* del norte del Cabo. Los último dos grupos están tomando también consciencia de sus raíces culturales e identidad.

Hoy el pueblo *bosquimano* de Sudáfrica se halla en Kagga-Kamma y Schmidtsdrift. Los de Kagga-Kamma son un grupo pequeño de personas quienes originalmente vivían en el noroeste de la

PARTE II

DERECHOS INDÍGENAS

LOS PUEBLOS INDÍGENAS EN LAS NACIONES UNIDAS

LA DECLARACIÓN LLEGA A LA COMISIÓN DE DERECHOS HUMANOS

Por Andrew Gray

Entre el 20 de noviembre y el 1ro de diciembre de 1995 indígenas provenientes de todo el mundo se trasladaron a la sede de las Naciones Unidas en Ginebra a defender la propuesta de Declaración de sus derechos, la cual en este momento está siendo tratada en el sistema de las Naciones Unidas. En agosto de 1994, después de 12 años de trabajo, el organismo especializado de la Comisión de Derechos Humanos de las Naciones Unidas (la Subcomisión de Prevención de la Discriminación y Protección de las Minorías), ha aprobado por unanimidad la propuesta de Declaración de los Derechos de los Pueblos Indígenas. Este documento había sido previamente redactado por un Grupo de Trabajo sobre Poblaciones Indígenas, que se reúne en Ginebra con cientos de representantes indígenas en julio de cada año, para escuchar sus problemas y elaborar normas legales para proteger sus derechos.

La aprobación por parte de la Subcomisión fue sumamente importante porque significa que expertos imparciales de las Naciones Unidas han aceptado la Declaración. Desde que este documento fue aprobado, los pueblos indígenas han continuado estudiando el texto y la respuesta abrumadora ha sido, que a pesar que no es tan fuerte como debería ser una declaración indígena, establece normas mínimas para garantizar los derechos indígenas.

La Declaración ha comenzado ahora el tortuoso camino desde los organismos expertos al ámbito altamente politizado de la Comisión de Derechos Humanos, conformada por 53 delegaciones gubernamentales que se reúnen cada año en febrero y marzo. Aquí los gobiernos disecan el texto de la Declaración, trayendo a colación sus propias problemáticas, sus agendas nacionales y sus intereses políticos. La propuesta será modificada en la Comisión de Derechos Humanos

y luego proseguirá, a través del Consejo Económico y Social (ECOSOC), hasta la Asamblea General de las Naciones Unidas para su aprobación final.

El trabajo en la Declaración consumía mucho tiempo a la Comisión de Derechos Humanos, por ello en marzo de 1995 se estableció un Grupo de Trabajo para que elaborara un borrador. El Grupo de Trabajo tiene carácter «intersesional» porque se realiza durante el período entre las reuniones de la Comisión y es «abierto» en el sentido que todas las organizaciones gubernamentales, no-gubernamentales, e inter-gubernamentales que poseen estatus consultivo con respecto a las Naciones Unidas pueden participar. Sin embargo, esta forma de participación en la ONU está lejos de ser «abierta» a los pueblos indígenas, quienes insisten constantemente que ellos deberían estar presentes en cualquier instancia donde se intenten definir sus derechos. Ellos quieren representarse a sí mismos y no tener siempre que depender de organizaciones no gubernamentales (ONGs) con estatus consultivo. Como respuesta, la Comisión de Derechos Humanos abrió la posibilidad de participación a las organizaciones indígenas, pero sólo después de establecer un proceso de postulación sumamente complicado. Las organizaciones y pueblos indígenas deben postularse al Coordinador del Decenio de los Pueblos Indígenas, el Sr. Ibrahim Fall. El consulta con el gobierno respectivo del país de los postulantes y envía la información al Comité de la ONU de ONGs, en Nueva York. Este organismo decide entonces recomendar o no la autorización de los participantes para que asistan al Grupo de Trabajo cuando este se reúna.

Hacia el inicio del Grupo de Trabajo, el 20 de noviembre, se habían recibido 99 postulaciones de representantes indígenas y en la reunión del 18 y 31 de octubre el Comité de ONGs aprobó 78. El caso de las 21 restantes sigue pendiente y será discutido junto con las nuevas postulaciones en una fecha posterior. En este evento participaron más de 100 representantes indígenas. Nadie sabe durante cuánto tiempo se reunirá el Grupo de Trabajo, pero las estimaciones varían entre 5 y 10 años.

Preocupaciones iniciales

Una vez que la declaración llegó a las manos de los gobiernos, los pueblos indígenas se prepararon para lo peor. Las áreas principales de preocupación fueron de cómo las reuniones serían dirigidas, hasta qué punto los pueblos indígenas tendrían una genuina participación y si el borrador de la Declaración sería aceptado como base para la discusión.

En muchos de los Grupos de Trabajo de la ONU, la presidencia es un factor de importancia para el progreso de la reunión, porque él o ella tiene las prerrogativas de determinar los métodos de trabajo. Los dos modelos alternativos para la reunión fueron, por un lado el foro abierto del Grupo de Trabajo de la ONU sobre Poblaciones Indígenas, en el cual todos tienen el mismo derecho a hablar, y por el otro, la Comisión de Derechos Humanos, que tiene un sistema muy complicado dando marcada preferencia a los gobiernos en lo que respecta al tiempo de intervención y a la influencia. Elegir una presidencia podría haber llevado días, pero en esta circunstancia, el Sr. José Urrutia de Perú, fue elegido en una hora.

A pesar de que el acceso a la Comisión del Grupo de Trabajo no es tan directo como al de la Subcomisión del Grupo de Trabajo de verano, no se impidió la participación e intervención de ningún indígena. José Urrutia demostró ser eficiente y justo, reuniéndose regularmente con los participantes indígenas, permitiendo hablar a todos y realizando consultas amplias (no sólo con los gobiernos) cuando se presentaba algún problema. Su primera decisión fue que la propuesta de Declaración de las Subcomisión proveyera las bases para la discusión. Esto alivió el temor de los indígenas de que la Declaración no fuera ni siquiera aceptada como punto de partida para el debate.

La posición de los pueblos indígenas presentes fue resumida en una resolución presentada al comienzo de la primera sesión del Grupo de Trabajo:

«Es la opinión de consenso de los Representantes Indígenas asistentes a la Reunión Preparatoria de los Pueblos Indígenas en Ginebra, el 18-19 de noviembre, que la Propuesta de Declaración de los Derechos de los Pueblos Indígenas, tal como fue adoptada por la Sub-comisión sobre Prevención de las Discriminación y Protección de la Minorías, sea adoptada por el Grupo de Trabajo creado por la Comisión de Derechos Humanos a través de la Resolución 1995/32 del 3 de marzo de 1995, por cuanto esta refleja las normas mínimas para la sobrevivencia de los Pueblos Indígenas.»

Pueblos y definiciones

En la tarde del primer día de la reunión se realizó una ceremonia indígena, después de la cual el Presidente de la reunión recordó el asesinato de Ken Saro Wiwa. Estos dos eventos fueron más lejos que el Grupo de Trabajo de la Subcomisión, al permitir la expresión

pública de la cultura indígena y al reflejar sus problemas. Esto permitió dar un tono positivo a la discusión. Una serie de planteamientos por parte de las delegaciones indígenas y de los gobiernos puso en claro los intereses generales de los diferentes participantes. La mayoría de los presentes apoyaron la lectura de las diversas secciones de la Declaración, sección por sección, para así poder presentar opiniones sobre las ventajas y desventajas de la propuesta.

La discusión planteó dos temas que han plagado las recientes discusiones de las Naciones Unidas sobre los pueblos indígenas. Brasil planteó la primera cuestión, continuando el tema que han estado planteando desde el Congreso de Derechos Humanos en Viena. En la reunión de Viena, Brasil insistió en sustituir el término «pueblos indígenas» por «indígenas» en la declaración final. Apoyado por los EE.UU., Canadá y Bangladesh, un número pequeño de países han amenazado la obtención de un consenso en tantas reuniones que el término «indígenas» se ha introducido como un error de imprenta en varios documentos de la ONU.

El debate sobre el término «pueblos» está relacionado con el hecho que en los instrumentos de las Naciones Unidas, todos los pueblos tienen el derecho a la autodeterminación. Más aún, el uso del término «pueblos» se refiere a una colectividad donde los derechos son gozados por grupos así como por individuos. Los países que protestan no reconocen ni el derecho a la autodeterminación ni el derecho colectivo de los pueblos indígenas. Al eliminar el término «pueblos» esperan quitarle vida a la propuesta de Declaración y conceptualizar a los pueblos indígenas como individuos.

El absurdo dentro del cual esta discusión puede caer quedó demostrado cuando Brasil objetó el nombre de «Grupo de trabajo abierto interseccional sobre una propuesta de declaración de las Naciones Unidas sobre los derechos de los pueblos indígenas.» A pesar del hecho que la Declaración usa el término «pueblos» en forma consecuente, Brasil insiste que se elimine este término. Después de bastantes discusiones se llegó a un compromiso, evitando el uso de la palabra «pueblos»; se llegó al nuevo nombre «Grupo de Trabajo establecido de acuerdo con la resolución 1995/32 del 3 de marzo de 1995 de la Comisión de Derechos Humanos».

Al mismo tiempo, varios países Asiáticos, dirigidos por el infatigable representante de Bangladesh, insistieron que antes de discutir la Declaración en detalle debería realizarse un debate sobre su impli-

cancia (esto significaba principalmente la definición del término «indígenas»).

Existía la preocupación de que la reunión fuera secuestrada por el grupo asiático y que el mismo retrasara los procedimientos de la misma manera que había ocurrido en un simposio del Foro Permanente, en Copenhague, a principios de 1995, donde el filibusterismo de Bangladesh e India llevó a que la reunión prosiguiera hasta las 3 de la madrugada. Nepal presentó, la tarde del día martes, en nombre del grupo regional una declaración de Asia insistiendo que *«es crucial definir el término 'indígenas' tomando en consideración que el término tiene su origen en... la situación única de los aborígenes de las Américas y Oceanía, quienes fueron, en determinado momento de la historia, invadidos por colonizadores extranjeros»*. Este planteamiento, apoyado con la amenaza de abandonar la reunión por parte de los países asiáticos, tenía sin duda el objetivo de que la Declaración no se aplicara a Asia.

La mañana del tercer día consistió en negociaciones entre los países asiáticos y el resto de los asistentes a la reunión. Se logró un acuerdo de compromiso en que la sesión vespertina se abocaría a discutir el «ámbito» y los comentarios sobre la Declaración misma comenzarían el día siguiente. El primer orador fue Fiji, quien denunció fuertemente el intento de los países asiáticos de imponer una opinión al resto de los participantes. Luego se leyó una declaración por parte de la representante *maori*, Moana Jackson:

«Es un hecho histórico, tan trágico como incontrovertible, que los esfuerzos de los Pueblos Indígenas en el GTPI (Grupo de Trabajo sobre Poblaciones Indígenas) y en este foro han estado motivados, en gran parte, por el despojo de la colonización.

«La usurpación de tierras, el rechazo de la lengua y la cultura, la negación de los derechos de los Pueblos Indígenas a decidir su propio destino, son todas consecuencias del despojo colonial, el cual esta declaración trata de encarar de acuerdo a la visión de los Pueblos Indígenas.

«Dentro de ese contexto, cualquier esfuerzo por definir quiénes o qué son los Pueblos Indígenas son considerados como un esfuerzo más para despojarnos de nuestro derecho inherente a la existencia. Por cierto, atribuirse el derecho a definir a los Pueblos Indígenas es seguir negando nuestro derecho a la autodeterminación, por cuanto no puede haber una expresión más fundamental

de ese derecho que la capacidad de determinar quién se es a través de la autoidentificación. Los Pueblos Indígenas han reafirmado constantemente que la determinación de pertenencia, identidad y estatus, debe ser procurada por los Pueblos Indígenas sin interferencia externa. Nuestra preocupación actual es que el intento de los estados por definir quienes somos equivale a tal interferencia.

«El derecho a la autodeterminación es un requisito previo fundamental para el ejercicio de todos los otros derechos y delimitarlo mediante una presunta autoridad para definir a los Pueblos Indígenas significa delimitar todos nuestros derechos.

«En un sentido más específico, opinamos que es innecesario intentar tal definición. Por su naturaleza, la declaración deber ser incluyente, universal y mundial, en vez de excluyente y estrechamente enfocada. Otros instrumentos de los Derechos Humanos han operado en forma efectiva sin una definición específica, como por ejemplo, la Declaración de los Derechos de las Minorías, en la cual el término minorías no ha sido definido. Nuestra opinión es que esta Declaración operará en forma tan efectiva como las otras sin intentar la difícil tarea de definir el término Pueblos Indígenas.

«Queremos reiterar nuestra preocupación relativa a que la atribución de parte de los Estados del derecho a definir quiénes somos es negar el derecho a la autodeterminación. El viejo proverbio que dice 'El que pone los nombres es el padre de todas las cosas', ha sido la fuente recurrente de la negación y del despojo de los Pueblos Indígenas. Queremos instar a que esta Declaración no sea usada para mantener esa apropiación, por parte de otros, que tan tristemente ha marcado nuestro pasado.»

Todos los indígenas presentes apoyaron esta declaración así como también muchos de los gobiernos. Sin embargo, Bangladesh presentó la proposición de limitar su alcance sólo a las Américas y Oceanía y argumento que la autoidentificación abría el concepto a «fingidores». Los pueblos indígenas de Asia, mientras tanto, habían preparado sus argumentos con detallada documentación. Previo a la reunión, la delegación indígena de Filipinas informó al representante de su gobierno que el término indígenas no sólo estaba incluido en el Artículo 2 sec. 22 de la Constitución, sino también que el Presidente había endosado públicamente la totalidad de la propuesta de Declaración. En su intervención, la representante del gobierno filipino se distanció de la declaración del día anterior hecha por el grupo asiático.

Posteriormente, se informó al representante de Nepal, quien había presentado la declaración del grupo asiático, que se estaba manifestando contra la política de su propio gobierno por cuanto el concepto de indígenas era reconocido por éste. El gobierno de Nepal había establecido, en observancia del Año Internacional de los Pueblos Indígenas, un comité para supervisar las actividades indígenas. Cuando después de la reunión se enfrentó al representante nepalés con este hecho, el mismo admitió que sólo había hecho lo que Bangladesh había solicitado.

Sin embargo la información más impactante vino del mismo Bangladesh. El grupo indígena asiático demostró claramente que en la Ley No. 12, párrafo 27, de 1995, publicada en la Gaceta de Bangladesh del 30 de junio, se hacía referencia a los «indígenas montañeses» en Chittagong Hill Tracts, eximiendo de impuestos a las actividades económicas a tales pueblos indígenas. Se presentaron otros ejemplos similares donde se hacía referencia a los «indígenas montañeses» extraído del documentos del Consejo Nacional Impositivo de Bangladesh del 10 marzo de 1980, 9 de abril de 1980, 17 de octubre de 1992 y 12 de junio de 1995. Esta información desinfló toda la presentación de Bangladesh y quedando pocos comentarios por hacer en el ámbito de esta discusión, sobre la cual ya se había luchado tanto tiempo, la reunión terminó media hora antes de lo planeado. El debate fue un fiasco para los países asiáticos que lo habían propuesto. Estos habían jugado a ganador cuando amenazaron con abandonar la sala de no realizarse esta discusión, y al final no obtuvieron nada.

Posteriormente, un participante indígena dijo «este fue el primer momento de la reunión donde tuvimos nuestras espaldas contra la pared». No obstante, la unidad de los dirigentes indígenas del grupo indígena se mantuvo firme. Justo antes de la discusión los participantes habían acordado que un ataque a una región indígena sería tratado como un ataque a todas. Esta solidaridad se mantuvo durante toda la reunión.

Sin embargo, la cuestión sobre el término y la definición de «pueblos» no desapareció. La cuestión del término «pueblos» volvió durante la redacción del informe del Grupo de Trabajo, mientras que lo referente al «ámbito» probablemente volverá a la palestra durante la próxima cita de la subcomisión del Grupo de Trabajo sobre Poblaciones Indígenas. No obstante, la discusión demostró claramente que los pueblos indígenas no están dispuestos a aceptar

el uso del término «indígenas» sin el término «pueblos» y que cualquier intento de definirlos con el fin de limitar el ámbito de la Declaración sería completamente inaceptable.

Discusión de la declaración - indígenas versus gobiernos

Los días siguientes fueron dedicados a la discusión de la Declaración, tomando por separado el Preámbulo y cada una de las nueve partes. El procedimiento usado consistió en comentarios sobre el texto por parte de los pueblos indígenas y los gobiernos. Luego el secretariado escribió un resumen de estos comentarios para su inclusión en el informe final de la comisión, el que se hizo circular en forma de borrador entre los participantes. A pesar que durante toda reunión los pueblos indígenas insistentemente reiteraron su deseo de que la Declaración fuera aceptada como estaba, los gobiernos por su parte planeaban claramente volverla a redactar. Sin embargo, no había consenso entre los gobiernos de cómo hacerlo.

Los gobiernos en la ONU están divididos en cinco áreas: estados asiáticos (incluyendo al Pacífico); estados latinoamericanos y caribeños; estados de Europa occidental y Otros estados; estados de Europa oriental, y estados africanos. Los tres primeros grupos fueron los más activos en la discusión. Pero en ninguna región existía consenso pleno. Por ejemplo, en Asia las opiniones negativas de Bangladesh, India y Japón sobre la Declaración estaban en completa contraposición al pleno apoyo de Fiji. En América Latina, a las opiniones negativas de Bolivia, Argentina y Perú se opusieron las de Bolivia, Colombia, Nicaragua y Cuba. En el bloque occidental, los enfoques negativos de los EE.UU y Canadá contaron con la oposición de los países nórdicos. La falta de consenso entre los gobiernos regionales ayudó a asegurar un debate abierto y podría explicar porqué, con la excepción de Brasil, Bolivia y EE.UU., ningún país trató abiertamente de imponer sus puntos de vista a otros.

Mientras los pueblos indígenas y los gobiernos aliados justificaron, en términos de rectificación de la violación de los derechos humanos, su aceptación de la Declaración, aquellos gobiernos opuestos a la Declaración argumentaron que ésta era «poco clara» e «impráctica». Sin embargo, la crítica más recurrida consistió en señalar a la Declaración como adversa al derecho nacional e internacional existentes. Este tipo de argumento implica una prestidigitación pues evita la discusión del contenido del texto y orienta la discusión a otras previsiones legales. Como era de esperarse de

este tipo de argumento, los aspectos progresistas de la Declaración son rechazados si son más fuertes que la legislación internacional o nacional, y nunca fortalecidos si son más débiles que las mismas. De esta forma se usaron previsiones legales existente como un medio de limitar la Declaración.

En varios momentos de la reunión se desafió este uso que se hacía de la legislación existente para limitar la propuesta de Declaración. Por ejemplo, el documento técnico del Secretariado analiza la Declaración en términos de los instrumentos legales internacionales existentes y demostró que eran perfectamente compatibles. Varios abogados presentes en la reunión justificaron la Declaración y la posición indígena señalando un sinnúmero de precedentes.

Varios países entraron en clara contradicción con su legislación nacional al asumir una posición negativa. La posición inicial de Filipinas ignoraba el hecho que el propio presidente Fidel Ramos había endosado en su totalidad la propuesta de Declaración. La declaración inicial de Perú ignoraba varios compromisos nacionales e internacionales para con los derechos indígenas. La razón de ésto posiblemente se deba a que los delegados gubernamentales ignoraban las obligaciones nacionales e internacionales de sus países para con los pueblos indígenas. Estos pasaron la mayor parte de su tiempo tratando de educar a los miembros de los gobiernos tanto en las leyes nacionales como internacionales.

La frustración de los pueblos indígenas al ver que las leyes nacionales e internacionales eran usadas para impedir la Declaración aumentó cuando la constante posición negativa japonesa fue desacreditada por S. Kayano, miembro indígena de la Dieta japonesa y miembro del comité de elaboración de la nueva ley *ainu*. Dijo:

«El gobierno japonés ha hecho repetidas declaraciones sobre la propuesta de declaración, criticando las ambigüedades de la redacción y la no familiaridad de algunos conceptos de derecho. Como no han hecho ninguna proposición constructiva, su posición parece bastante conservadora y profundamente negativa con respecto a la propuesta de Declaración.

Yo quisiera pedirles que no acepten sus declaraciones como incambiables o como el resultado de investigaciones acabadas del gobierno japonés. Por supuesto que entiendo plenamente que la delegación de Japón en Ginebra está siempre controlada por To-

kio, con poca discreción, de modo que no puede parecer interesada en la discusión que aquí se lleva a cabo o en cambios en el proceso político en Japón».

Esta declaración resumió en gran parte la frustración sentida por los pueblos indígenas en lo relativo a los argumentos gubernamentales contra la propuesta de Declaración. Finalmente el abogado internacional, Hurst Hannum dijo:

«Para ser consecuente con las normas existentes de derechos humanos a nivel internacional, los derechos expuestos en la propuesta de Declaración no deberían estar por debajo de las normas mínimas actuales. El propósito de esta declaración es ampliar y clarificar los derechos existentes, no sólo repetirlos.

«Varias delegaciones han objetado provisiones específicas de la propuesta de declaración porque no son consecuentes con las leyes nacionales o provisiones constitucionales existentes. Primero, por supuesto, debe llamarse la atención al hecho que cualquiera declaración de la Asamblea General no puede crear directamente obligaciones legales... por ello no se requiere que ningún estado enmiende sus leyes en caso de que se adopte la declaración. Más aún, la obligación moral y política de implementar la declaración de buena fe requiere solamente que los objetivos o propósitos de la declaración se cumplan. En muchos casos la forma de lograr estos objetivos puede encontrarse ya en las leyes nacionales. Finalmente, se debe recordar en relación a la Declaración Universal de los Derechos Humanos de 1948, que no todos los estados que votaron en favor de la declaración cumplieron con todas las normas requeridas, pero esto no obstaculizó su adopción como un conjunto de principios a ser logrados progresivamente.»

Discusión de la Declaración - temas principales

La discusión abierta examinó la totalidad de la propuesta de Declaración con el fin de identificar alguno de los puntos principales. Varios elementos se repitieron en todas las secciones, especialmente la cuestión de la autodeterminación, los derechos colectivos y el control de los recursos. No obstante, algunas características se agrupaban y fue posible ver posiciones en torno a las cuales se centrarán las discusiones durante los próximos años.

El Preámbulo

A pesar de que varios gobiernos hicieron comentarios respecto al texto, la mayoría decidió esperar para comentar sobre los artículos más substanciales. No obstante, el problema de «pueblos» volvió a surgir en el tema del título. Australia, Noruega, Finlandia, Rusia, Cuba y Bolivia se pronunciaron firmemente en favor del término «pueblos» mientras que EE.UU., Japón, Canadá y Brasil se opusieron o usaron constantemente en sus presentaciones el término «indígenas». En el medio estaban Nueva Zelanda y el Reino Unido, los cuales estaban dispuestos a seguir discutiendo este tema.

Otro tema que surgió en el Preámbulo fueron los instrumentos de las Naciones Unidas sobre los cuales debería hacerse mención al comienzo de la Declaración. Se sometió a escrutinio el Convenio 169 de OIT, que es el único documento que hasta este momento se refiere a los pueblos indígenas. Los representantes indígenas no estaban entusiasmados con la idea de referirse al Convenio porque su texto es considerablemente más débil que el de la Declaración; al mismo tiempo, algunos gobiernos, como Brasil y Argentina, se oponían a su inclusión por considerar su texto muy progresista.

Parte I - Autodeterminación

La Parte I de la Declaración dice relación con los principios generales que cubren los derechos de los pueblos indígenas a gozar plenamente de los derechos humanos y libertades básicas, la garantía de no-discriminación, el derecho a la autodeterminación, el derecho a mantener y reforzar sus formas de vida características, y el derecho a la nacionalidad. La mayoría de la discusión se centró en el concepto de la autodeterminación.

La autodeterminación es el derecho de todos los pueblos a controlar su destino y constituye el marco esencial para todos los otros derechos. Los representantes indígenas en el Grupo de Trabajo apoyaron por unanimidad el Artículo 3 de la propuesta de Declaración. *«Los Pueblos Indígenas tienen el derecho a la autodeterminación. En virtud de ese derecho determinan libremente su estatus político y procuran libremente su desarrollo económico, social y cultural»*. Los pueblos indígenas basaron su posición en la importancia de la igualdad entre los pueblos. Si todos los pueblos tienen el derecho a la autodeterminación, como es expresado en varios instrumentos de las Naciones Unidas, los pueblos indígenas no deben ser tratados en forma diferente a otras personas. Hacerlo significaría discriminación.

En el Grupo de Trabajo se expresaron 4 posiciones respecto al concepto de autodeterminación: 1. Los pueblos indígenas apoyaron la autodeterminación como expresado en la propuesta de Declaración, es decir en un sentido amplio, libre de discriminación. Esto contó con el apoyo de países de todo el mundo, de los cuales Dinamarca, Noruega, Finlandia, Australia, Bolivia, Cuba y Fiji fueron los que más claramente expresaron su apoyo. 2. Algunos gobiernos aceptaron el concepto de autodeterminación pero les gustaría que se hiciera una declaración que indicara que el término no afecta la integridad territorial de los estados. Entre los gobiernos que adoptaron esta posición estaban Chile, Colombia, El Salvador e Indonesia. 3. Suecia, Nueva Zelanda y Canadá, aunque no se oponían a la autodeterminación, plantearon que era necesario proseguir el diálogo y las negociaciones. En principio aceptaban la inclusión del término autodeterminación siempre que el significado fuera inequívoco. 4. Varios países rechazaron la autodeterminación y recomendaron el uso de términos tales como «autonomía». Países tales como Brasil, Argentina, Bangladesh, India, Japón, EEUU y Francia, que en general tienen una actitud negativa ante la Declaración, expresaron su dificultad con el concepto. Esta lista incluye la mayoría de los gobiernos que se manifestaron en pro o en contra de la Declaración. Mucho de los que no hablaron podrían incluirse en los puntos 2 y 3. Por esta razón, el término autodeterminación se aprobó, en principio, por un número de gobiernos mayor del esperado. El concepto no ha sido de ninguna manera rechazado. Sin embargo, los opositores son insistentes y a menos que los indígenas y los países progresistas defiendan sus posiciones, la fuerza de la propuesta de Declaración puede ser seriamente deteriorada. Los delegados indígenas plantearon claramente que de desaparecer la autodeterminación de la Declaración, considerarían su texto sin valor alguno, por cuanto sería un documento discriminatorio.

Parte II - Derechos colectivos

La segunda parte de la Declaración trata sobre la vida, la integridad y la seguridad. Está orientada a promover los derechos de auto-identificación de los pueblos indígenas y la libertad de pertenecer a sus propias comunidades, al mismo tiempo que los protege del genocidio físico y cultural, así como de la remoción forzosa de sus tierras y territorios. Aún más, estipula que los pueblos indígenas tienen derecho a un tratamiento especial de protección y seguridad en períodos de conflicto armado. A través de todo el texto se

reconoce a los pueblos indígenas como poseedores tanto de derechos colectivos como individuales.

La discusión cubrió varios puntos. Algunos gobiernos cuestionaron la definición de genocidio cultural, defendieron el derecho de los estados a reclutar a los pueblos indígenas para su servicio dentro de la fuerzas armadas y la necesidad de remover a los pueblos indígenas de sus territorios en circunstancias excepcionales. Sin embargo, la mayor discusión se concentró en el punto de si la Declaración debería incluir tanto los derechos colectivos como los individuales.

Los pueblos indígenas y los expertos legales presentes en la reunión se mostraron inflexibles en su planteamiento respecto a que los derechos colectivos son esenciales para la sobrevivencia de los pueblos indígenas y que ellos tienen una reconocida historia en el derecho internacional, que se extiende desde la Convención sobre Genocidio, pasando por los Convenios de Derechos Humanos hasta el Convenio 169 de la OIT. El abogado internacional, Patrick Thornberry comentó: «No es una norma técnicamente adecuada ante este Grupo de Trabajo el hacer objeciones demoledoras contra todos los derechos colectivos.» A pesar de ello, EE.UU, Francia y Japón negaron durante toda la reunión estos derechos.

La insistencia sobre esta posición antioleativa fue frustrante para los pueblos indígenas porque carecía tanto de lógica como de aplicabilidad práctica. Los derechos indígenas a tierras y territorios se basan en la colectividad y cualquier reconocimiento de las instituciones indígenas no tiene sentido sin el respeto a la toma de decisiones del grupo como un todo. La representante *cree*, Sharon Venne, ilustró esto:

«Como Pueblos Indígenas, pensamos que los derechos del individuo son protegidos por el derecho colectivo... Cuando un estado eurocéntrico quiere nuestras tierras, ellos usan el derecho colectivo de expropiación. Nuestras tierras son tomadas para el bienestar colectivo del estado. Este es el derecho colectivo usado por el Estado para apropiarse de nuestras tierras. Pero cuando los pueblos indígenas invocan el sólo el uso del término 'derechos colectivos' el estado cobra falta. ¿Porqué este doble criterio? Nuestro derecho colectivo es tan importante como su derecho colectivo.»

La posición de los gobiernos sobre los derechos colectivos se engloban en las siguientes categorías: 1. Gobiernos tales como Noruega,

Finlandia, Dinamarca, Australia, Fiji, Bolivia y Colombia no tienen problemas con los derechos colectivos tal como se expresan en la Declaración. 2. Algunos gobiernos como el Reino Unido y Holanda mostraron su preocupación porque los derechos colectivos podrían afectar los derechos individuales de los pueblos indígenas. Estos países, de recibir mayor información aclaratoria, no apoyarían el uso excluyente de los derechos individuales en el texto. 3. Gobiernos como Brasil, Chile, Malaysia y China aceptan que los derechos colectivos estén en la Declaración pero quieren proseguir las negociaciones y discusiones cuando esto sea apropiado. 4. Varios países de la línea dura se opusieron a los derechos colectivos. Estos países eran encabezados por EE.U.U., Francia y Japón. Alemania y Perú también se mostraron partidarios de esta posición.

Esta lista, desplazó a algunos gobiernos que estaban opuestos a la autodeterminación, como Brasil, a posiciones más positivas en este tema que otros como Perú y Alemania. Se puede observar que no hay coherencia en la posición de los gobiernos, lo cual significa que pueden ser flexibles y pueden estar preparados a reconsiderar su línea dándoles tiempo y oportunidad para reflexionar. Muchos de los delegados en Ginebra no estaban familiarizados con cuestiones indígenas. Esto también es válido para representantes de algunos ministerios de los estados nacionales que son los que daban las instrucciones, claramente equivocadas, sobre algunas de estas materias.

Parte III y IV - Cultura y educación

La parte III es sobre cultura, religión e identidad lingüística y cubre la libertad de practicar, revitalizar y enseñar sus tradiciones, costumbres y ceremonias. Se expresaron muy pocas objeciones en este punto, aunque Nueva Zelanda y Malaysia pidieron aclaración sobre la previsión relacionada con la restitución de la cultura indígena, propiedad intelectual, religiosa y espiritual. Francia insistió en que el idioma francés se mantuviera como el idioma de sus colonias.

La cuarta parte cubre la educación e información pública, reconociendo los derechos de los pueblos indígenas a la educación estatal y al establecimiento de su propio sistema educacional. Más aún, plantea que los programas educativos deberían promover el entendimiento y la tolerancia de los estilos de vida indígenas y deberían reflejar sus valores. Esta parte también contiene previsiones para que los pueblos indígenas establezcan medios de

comunicación en su propio idioma y para protegerlos de las condiciones discriminatorias de empleo. Hubieron pocos comentarios negativos sobre la Parte IV, a pesar que los EE.UU. consideraron que los niños indígenas que viven fuera de sus territorios no deberían necesariamente recibir educación culturalmente apropiada.

Parte V: Participación, consentimiento y tratamiento favorecido

La Parte V dice relación con los derechos económicos y sociales. Esta reconoce los derechos de los pueblos indígenas de participar en la toma de las decisiones que los afecten y establece que los estados deben obtener su consentimiento libre e informado antes de ejecutar cualquier medida legislativa o administrativa. Reconoce también el derecho indígena al autodesarrollo, el derecho a medidas especiales para mejorar sus condiciones y el otorgar compensación por las privaciones pasadas. Se hace mención especial a los derechos de acceso a la salud y a la libertad de practicar su medicina tradicional.

La primera discusión se centró en torno al concepto de participación. Durante la revisión del Convenio 169 de la OIT, los términos «consulta» y «participación» fueron vistos como una versión debilitada de los términos «consentimiento» y «control». El primer par de conceptos reconoce que los pueblos indígenas podrían discutir y tomar parte en las decisiones que los afectaran, mientras el último reconoce sus derechos a determinar sus destinos. Desde esa discusión, la «participación» se ha transformado en un término general que cubre toda la gama de actividades desde la consulta al consentimiento. La reunión reflejó este cambio de significado y analizó los diferentes significados de participación.

La discusión fue, en realidad, sobre la autodeterminación. Los pueblos indígenas vieron la participación como enraizada en el consentimiento y el control de sus vidas. Gobiernos tales como Noruega, Finlandia, Australia, Bolivia, Colombia y Chile estuvieron de acuerdo con esta posición. Canadá asumió una posición más débil y vio a la «participación» a través del concepto de «autogestión» mientras que Suecia vio como significativa la igualdad a través de la democracia. Por su parte, Brasil y Francia consideraron a la «participación» más como una forma de consulta y como el derecho a tomar parte en iniciativas estatales.

El otro punto de discusión en la Parte V concernía al tema de las medidas especiales y la prioridad de acceso a los recursos del

estado. A Nueva Zelanda y los EE.UU. no les gustó la idea de que los estados comprometieran las finanzas estatales con los pueblos indígenas y fueron severamente criticados por representantes indígenas por rehusar aceptar sus responsabilidades. La cuestión sobre medidas especiales fue considerada por varios gobiernos, incluyendo a EE.UU., Japón y Francia, como el establecimiento de una nueva forma de desigualdad. Los representantes indígenas y los expertos legales presentes se dieron la tarea de explicar que las «medidas especiales» no están diseñadas para hacer a los pueblos indígenas menos iguales que otros, sino para asegurarles un nivel de vida que esté a la par de otros en el mismo país. Esto fue expresado de la siguiente manera por Hannum:

«El reconocimiento de la posición especial y de los derechos de los pueblos indígenas no representa un intento de discriminación contra otros, sino solamente responder a las injusticias históricas y a la realidad contemporánea como fue expresado por muchos oradores indígenas. Obviamente tal tratamiento especial no es sólo apropiado sino que necesario... es por cierto insuficiente intentar rechazar discusiones serias llamándolas 'discriminatorias'.»

Parte VI - Territorios, tierras y recursos

Aunque se esperaba que este fuera uno de los aspectos más conflictivos de la Declaración, la discusión no fue tan divisiva como se había esperado. Esta parte de la Declaración empieza con un reconocimiento general del aspecto holístico filosófico de los territorios indígenas y procede a reconocer el derecho a poseer, desarrollar, controlar el uso de ellos. Se incluye aquí la inalienabilidad de las tierras y territorios indígenas. Los pueblos indígenas tienen el derecho a la restitución de las tierras tomadas sin su consentimiento, el derecho al control sobre sus recursos y la protección de su medio ambiente, y a la propiedad cultural.

Lo siguiente refleja las posiciones de los gobiernos sobre estos artículos. 1. Bolivia y Colombia apoyaron a los representantes indígenas que defendieron claramente estos artículos de la Declaración enfatizando la importancia del reconocimiento de las tierras, territorios y recursos que han poseído, ocupado y usado tradicionalmente. 2. Australia no reconoció el título indígena absoluto y expresó su posición a través del ejemplo del concepto del dominio absoluto que puede extinguirse en ciertos contextos. Finlandia y Noruega no estaban muy claros en su posición sobre el tema de las

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tierras y los recursos por cuanto estos temas serán aprobados durante 1996. 3. Brasil, Argentina y Perú tuvieron problemas con el término «territorio», que aunque reconocido en su legislación nacional, ha sido ignorado. Brasil argumentó que los pueblos indígenas sólo disponían de derechos al usufructo de la tierra porque todo el territorio está en manos del estado (este es un argumento que proviene de los pensadores del siglo 19 partidarios de la evolución social). 4. Los EE.UU. rehusaron reconocer los derechos colectivos a la tierra y se refirieron a «las personas dueñas de la tierra». Japón, por su parte, enfatizó su deseo de vincular los derechos indígenas a la tierra con la ley de propiedad del estado. Francia quiso hacer de la protección del medio ambiente una condición para la obtención de derechos territoriales. Esta posición ha sido usada por algunas organizaciones ambientalistas pero fue rechazada rotundamente por el Fondo Mundial para la Protección de la Naturaleza (WWF), el cual apoyó sin reservas, y tal como estaban planteadas, las provisiones de la Declaración sobre tierra, territorio y recursos.

Parte VII - Instituciones políticas indígenas

La parte VII trata de las instituciones indígenas y expresa el derecho a determinar las estructuras y membresía así como posibles opciones de autodeterminación, incluyendo la autonomía y la autogestión. Apoya los derechos de individuos indígenas bajo las normas internacionales de derechos humanos y promueve la libertad de movimiento entre pueblos indígenas divididos por los límites estatales. Esta parte reconoce también que los pueblos indígenas tiene el derecho al reconocimiento, la observancia y la aplicación de tratados, acuerdos constructivos, hechos con los estados de acuerdo a su espíritu y propósito original.

Los representantes indígenas volvieron a enfatizar su reivindicación del derecho a la autodeterminación y plantearon que el uso del término «autonomía» y «autogestión» no debía verse como una limitación de sus derechos. Apoyaron unánimemente el reconocimiento y el respeto de los tratados entre los pueblos indígenas y los gobiernos como acuerdos internacionales. Sobre este tema, el Consejo Internacional de Tratados Indígenas, los *maori* y representantes de los pueblos del Tratado, de Canadá, hicieron una fuerte declaración. El representante del Tratado Seis dijo:

«Todo lo que estamos diciendo a Canadá es, cumplan el tratado como un todo y respeten la relación del tratado que fue establecida

por nuestros respectivos ancestros y todo lo demás caerá en su lugar... El hecho que un Tratado Internacional haya sido celebrado por nuestras Naciones y la Corona es en sí un reconocimiento de nuestra soberanía y autodeterminación y la renuncia de ese derecho no fue siquiera discutido al momento del Tratado.»

Colombia, Bolivia, Fiji, Australia y los países nórdicos asumieron una actitud positiva en el reconocimiento de la autodeterminación y las obligaciones de los tratados. Aquellos países con obligaciones provenientes de tratados como Nueva Zelanda y Canadá, asumieron una actitud ambigua, mientras que los EE.UU. y Argentina no se mostraron entusiasmados ante la idea de que los tratados fueran reconocidos como acuerdos internacionales.

Parte VIII y IX - Implementación y previsiones generales

La parte VIII obliga a los estados a dar efecto pleno a la Declaración y otorgar a los pueblos indígenas los medios y recursos financieros para que sus aspiraciones den los frutos esperados. Las Naciones Unidas deberían establecer un organismo que monitoree el cumplimiento de la Declaración. La parte final dice que los derechos establecidos en la Declaración representan las normas mínimas para los pueblos indígenas -tanto hombres como mujeres- y no deberían debilitar ningún derecho futuro que ellos puedan lograr. Finalmente la Declaración dice que no debería interpretarse como actividad contraria a la Carta de las Naciones Unidas.

La discusión sobre estas partes fue relativamente corta. Así como con las otras partes los representantes indígenas estuvieron a favor. Los gobiernos nórdicos consideraron que la actual discusión sobre el establecimiento de un foro permanente podría ser relevante para la puesta en práctica de la Declaración. Nueva Zelanda se mostró preocupada por las obligaciones financieras de los estados establecidas en la Declaración. Sin embargo, Japón y los EE.UU. continuaron insistiendo en su obsesión por los derechos individuales.

El informe

En forma simultánea a la reunión, la Presidencia y el Secretariado redactaron el informe final y lo distribuyeron para las consultas con las diferentes partes. Las redacciones finales se presentaron durante los dos últimos días como tres documentos de la conferencia y estos fueron discutidos en consultas y negociaciones de pasillos. El grupo dirigente indígena se reunió y formaron un grupo de redac-

ción para leer todos los informes y hacer sus comentarios. Al mismo tiempo, un pequeño grupo de representantes gubernamentales se reunían para elaborar su estrategia. Digno de mencionar son los casos de Bangladesh, Brasil y EE.UU., los más vociferantes sobre la negación del término «pueblos» y los derechos colectivos.

Durante el último día, se hizo más evidente que el problema principal que enfrentaba el informe era la insistencia de Brasil, EE.UU y Bangladesh para que se usara el término «indígenas» en todo el documento o que el término «pueblos» fuera entre paréntesis lo que indicaría que está aún en discusión. En ese caso habría significado una amenaza directa al término pueblos. Los representantes indígenas y muchos gobiernos estaban furiosos porque los procedimientos estaban siendo retrasados. En primer lugar, la Declaración usa consecuentemente el término pueblos y a través de toda la reunión la mayoría de los participantes (con la excepción de unos pocos gobiernos) también usaron este término.

Se realizaron negociaciones con un pequeño grupo, el cual incluía a Australia, Fiji, Chile y EE.UU. Se llegó al compromiso al redactar un acápite que fue puesto al comienzo del informe. Los representantes indígenas lo aceptaron, así como lo hicieron también todos los otros gobiernos. El extremo de la obsesión de los gobiernos de EE.UU y Brasil por eliminar el término «pueblos» quedó de manifiesto cuando se tuvo que detener la reunión para que ellos recibieran nuevas instrucciones de sus países. La redacción final quedó como sigue:

«Este informe es solamente un registro del debate y no implica la aceptación del uso de las expresiones 'pueblos indígenas' o 'indígenas' incluidos en el mismo. Ambos términos son usados sin prejuicio a la posición de delegaciones particulares en las cuales persiste una posición divergente.»

Las modificaciones sugeridas por los participantes indígenas en la reunión tenían relación, primordialmente, con la representación fidedigna de lo que ellos habían expresado. El informe es importante porque da una indicación de los sentimientos de la reunión ante ciertos temas. Esto implica la interpretación de indicadores de apoyo o disidencia al usar términos como «muchos», «varios», «algunos», «ciertos», «pocos» y «uno». Los representantes indígenas quisieron asegurar que sus posiciones consensuales fueran descritas con el término «todos». El sentido dado al informe está en

un contexto gubernamental, «todos» y «muchos» significa acuerdo; «varios» y «algunos» da cabida a la posibilidad de negociaciones y «pocos» una posición minoritaria. Sin embargo, todas siguen siendo un reflejo de la reunión misma y varios gobiernos no hicieron comentarios.

La Presidencia de la reunión recibió las modificaciones indígenas y acordó que estas serían incluidas en la revisión final del texto. La última hora de la reunión consistió en la lectura del informe y la incorporación de modificaciones menores. El acuerdo previo sobre la palabra «pueblos» y la voluntad de la Presidencia de incorporar cambios condujo a la obtención de un consenso y el informe fue aprobado.

Actividades futuras del Grupo de Trabajo

Durante el último día se realizaron reuniones informales sobre varios temas. Se acordó después de mucho discutir que la próxima reunión debería realizarse en noviembre de 1996. Además, una resolución que pasa a través de la Asamblea General debería permitir al Fondo Voluntario para los Pueblos Indígenas de la ONU ayudar financieramente a los representantes al Grupo de Trabajo de invierno y de verano.

Las actividades para 1996 no se discutieron en detalle. La mayoría de los representantes indígenas y de los gobiernos se manifestaron partidarios de una segunda mirada a la Declaración artículo por artículo, pero sin entrar en ninguna redacción. Esto daría mayor tiempo para negociaciones y permitiría a los pueblos indígenas explicar su posición a los gobiernos que no han estado tomando parte activa en los procedimientos. No obstante, Australia mostró su voluntad de empezar a redactar algunos de los artículos menos controversiales. Otros participantes expresaron la necesidad de que el Grupo de Trabajo empezara a mostrar resultados.

No se tomó ninguna decisión en lo referente al plan de trabajo del próximo año, pero será en la Comisión sobre los Derechos Humanos en 1996 donde se redactarán y discutirán las futuras actividades.

Conclusiones

El grupo dirigente indígena presentó un frente unido en la reunión y los miembros proveyeron una Declaración que resume su posición en la forma de ocho puntos: I. El grupo de los pueblos indígenas expresó la importancia de los tratados porque ellos confirman y

son la evidencia de nuestro derecho a la autodeterminación. II. El grupo de los pueblos indígenas planteó que debe adoptarse el término «Pueblos Indígenas» y que además el derecho a la autodeterminación, tal como está expresado en el derecho internacional, debe vincularse al término «Pueblos Indígenas». III. El grupo de los pueblos indígenas instó a un reconocimiento explícito de la tierra, territorios y recursos que tradicionalmente han poseído, ocupado y usado, a causa de la prolongada historia de desposesión de tierras ilegal o injustamente expropiadas. IV. El grupo de los pueblos indígenas reiteró su posición en lo que respecta a su estatus diferenciado como primeras naciones y pueblos, y declararon su apoyo a los principios elaborados en el artículo 2 con el fin de proteger su seguridad, integridad y coherencia. V. El grupo de los pueblos indígenas indicó que el preámbulo es fundamental para toda la redacción porque establece las bases filosóficas y las cláusulas contextuales y es sensible a la intención de la Declaración. Los pueblos indígenas argumentaron en favor de la consideración del preámbulo en los párrafos operativos. VI. El grupo de los pueblos indígenas reafirmó la necesidad de reconocer las normas contenidas en la Propuesta de Declaración como normas mínimas, creando las bases para el desarrollo posterior de los Derechos Humanos Inherentes de los Indígenas. VII. El grupo de los pueblos indígenas planteó la necesidad de mantener el lenguaje usado en la redacción del Artículo 45 para asegurar que los estados y otras personas no interpreten de forma diferente los derechos indicados en la Propuesta de Declaración. VIII. El grupo de los pueblos indígenas reafirmó que los Derechos Colectivos de los Pueblos Indígenas deben ser respetados y reconocidos conforme a los Instrumentos de Derechos Humanos internacionalmente reconocidos.

Los gobiernos están divididos en sus regiones. En resumen, se puede presentar las posiciones de los gobiernos en una forma un tanto rudimentaria como guía para futuros trabajos. Los gobiernos pueden dividirse en vocales, con participación activa en la reunión, y los silenciosos, que no intervinieron. Los países vocales se agrupan en cuatro tipos: fríos, tibios, templados y cálidos, mientras que los gobiernos silenciosos se agrupan en dos en base a las consultas realizadas durante la reunión. (C) significa actuales miembros de la Comisión de Derechos Humanos.

Países vocales

Fríos	Tibios	Templados	Cálidos
Bangladesh (C)	Canadá (C)	Chile (C)	Australia (C)
Brasil (C)	Indonesia (C)	México (C)	Colombia (C)
China (C)	Malaysia (C)	Rusia (C)	Cuba (C)
Francia (C)	Nepal (C)	Suecia (C)	Finlandia (C)
India (C)	Filipinas (C)	El Salvador (C)	Bolivia (C)
Nicaragua (C)	Nueva Zelanda (C)	Panamá	Dinamarca (C)
Japón (C)			Fiji
Perú (C)			Noruega
EEUU (C)			

Países silenciosos

Más fríos	Más tibios
Ecuador (C)	Holanda (C)
Alemania (C)	Reino Unido (C)
Ucrania (C)	España (C)
	Paquistán

Posiciones desconocidas

Argelia (C), Austria (C), Bulgaria (C), Costa Rica, Egipto (C), Etiopía (C), Guatemala, Honduras, Italia (C), Sri Lanka (C), Grecia, Irak, Israel, Jordania, Kenya, Marruecos, Nigeria, Sudáfrica, Tanzania, Tailandia, Uruguay, Vietnam.

Los Pueblos Indígenas están conscientes de que una vez que la propuesta de Declaración alcance los niveles políticos de las Naciones Unidas será mucho mas difícil defenderla. La reunión del Grupo de Trabajo demostró que ése es el caso. Hay una mayor participación de los gobiernos que en la Subcomisión del Grupo de Trabajo y los pueblos indígenas no son claramente los que toman la decisión final con respecto a su destino. Por esta razón el enfoque claro y abierto de José Urrutia, el Presidente, fue bienvenido por los pueblos indígenas. El trató a todos los participantes como iguales con el mismo derecho a hablar y a ser consultados sobre el informe.

Sin duda el permiso que otorgó para realizar una ceremonia indígena en el segundo día de la reunión fue especialmente apreciado.

La reunión fue una discusión general y aunque hubieron algunos gobiernos que tuvieron una actitud altamente negativa, los ataques a los derechos indígenas no fueron tantos como esperados. El grupo indígena mantuvo una unidad y solidaridad que significó que su posición en defensa de la Declaración fuera inquebrantable. La atmósfera de la reunión fue positiva y las delegaciones indígenas tuvieron tiempo y espacio para discutir los puntos con varios gobiernos y abrir posibilidades para el entendimiento.

El proceso de redacción de la Declaración ha sido educativo para ambas partes, pueblos indígenas y gobiernos. Sin embargo, está claro que los gobernantes que no han participado en las sesiones de redacción en el Grupo de Trabajo de la Subcomisión, todavía no tienen claro lo que realmente significa. Algunos países asiáticos se mostraron menos negativos después que discutieron personalmente algunos puntos específicos y algunos países latinoamericanos críticos, han aceptado que sus instrucciones provenían de ministerios no familiarizados con los derechos indígenas.

Por esta razón los pueblos indígenas y la mayoría de los gobiernos no apoyan la idea de apurar el proceso. Un enfoque más gradual relativo a las áreas de desacuerdo parece lo más positivo. Los gobiernos, con pocas excepciones, no han bloqueado o rechazado los conceptos importantes tales como «pueblos», «autodeterminación», «territorios», «consentimiento» y «control». Más bien «buscan aclaración», lo que significa que aún existe espacio para la discusión. Los problemas se presentarán cuando los gobiernos se nieguen a buscar mutuo acuerdo con los pueblos indígenas sobre aquellos conceptos cruciales, porque significaría una quiebra del proceso.

Los pueblos indígenas presentes en la reunión decidieron priorizar la discusión de estos asuntos con sus respectivos gobiernos con el fin de aclarar su posición y explicar el razonamiento que respalda la necesidad del reconocimiento de sus derechos. Por lo tanto, se necesita realizar mucho trabajo previo antes de la próxima reunión de noviembre del Grupo de Trabajo.

LOS PUEBLOS INDÍGENAS Y LAS NACIONES UNIDAS:

LA COMISIÓN DE DERECHOS HUMANOS PONE EL TEMA INDÍGENA EN EL ORDEN DEL DÍA

por Inger Sjørslev

Cuando en la quincuagésima segunda sesión de La Comisión de Derechos Humanos, que se celebró del 18 de marzo al 26 de abril, se puso el tema indígena en la agenda como un punto específico, se entró en una fase nueva en la relación entre los pueblos indígenas del mundo y las Naciones Unidas. Hasta entonces, las cuestiones indígenas se habían tratado fundamentalmente bajo el punto que contiene el informe de la Subcomisión de Prevención de la Discriminación y Protección de las Minorías, el cual incluye el informe del Grupo de Trabajo sobre Poblaciones Indígenas. Este año, sin embargo, la situación ha cambiado. Ante todo, la Propuesta de Declaración sobre los derechos indígenas ha alcanzado el nivel de la Comisión y está siendo procesada en un grupo especial de trabajo intersesional, tal como se expresa en el informe de Andrew Gray. Segundo, la idea de establecer un foro permanente para pueblos indígenas dentro de la ONU ha avanzado y comienza lentamente a concretizarse. Se han presentado a la Asamblea General resoluciones acerca del Decenio y sobre el posible establecimiento de un foro permanente, y esto también fue tratado en un seminario que se celebró en Copenhague, en junio de 1995.

En general, la cantidad de reuniones y actividades de interés para los pueblos indígenas ha aumentado substancialmente en el transcurso de los últimos años. Existían por lo tanto muchas buenas razones para juntar los diferentes asuntos y actividades bajo un punto de la agenda, para ser discutidos como un todo y dentro del contexto de las cuestiones y problemas que los pueblos indígenas consideran como los más urgentes. Sin embargo, el logro de este resultado no fue fácil, y durante un tiempo pareció como si los

gobiernos que habían presentado la propuesta de establecer un punto especial en la agenda no tendrían éxito.

El proceso comenzó algo antes de que empezara la verdadera reunión de la Comisión, cuando el Gobierno danés, que acaba de convertirse en miembro de la Comisión por el próximo período de tres años, presentó al Buró de la Comisión la propuesta de establecer un punto especial en la agenda relativo al tema indígena. La propuesta estaba en ese momento apoyada por 11 países. Tuvo un fin favorable, cuando el 1 de abril, el presidente brasileño de la Comisión, el Embajador Saboia, anunció que había sido agregado a la agenda un nuevo punto, el punto 23, el tema indígena.

En 1996 los 53 miembros de la Comisión son: Argelia, Angola, Australia, Austria, Bangladesh, Belarus, Benim, Bután, Brasil, Bulgaria, Camerún, Canadá, Chile, China, Colombia, Costa de Marfil, Cuba, Dinamarca, República Dominicana, Ecuador, Egipto, El Salvador, Etiopía, Francia, Gabón, Alemania, Guinea, Hungría, India, Indonesia, Italia, Japón, Madagascar, Malawi, Malaysia, Mali, Mauritania, México, Nepal, Países Bajos, Nicaragua, Paquistán, Perú, Filipinas, República de Corea, Federación Rusa, Sri Lanka, Uganda, Ucrania, Reino Unido, Estados Unidos, Venezuela y Zimbabwe.

Los gobiernos de la ONU se han alineado en cinco grupos regionales: Africa, Asia, América Central y del Sur - incluyendo al Caribe, Europa Oriental, y el Grupo Occidental y Otros (WEOG), que además de los estados de Europa Occidental incluye a Australia, Canadá, Japón, Nueva Zelanda y los Estados Unidos. Los grupos negocian individualmente y tratan de alcanzar un nivel de solidaridad y llegar a acuerdos internos antes de que los asuntos sean presentados en la Comisión para su discusión y votación.

No es de sorprender que el grupo asiático es el más difícil de tratar en materias de interés para los pueblos indígenas. El grupo africano parece hasta ahora ser bastante neutral, mientras que el grupo centro-sudamericano y el de Europa Oriental, con la Federación Rusa, están relativamente abiertos a los argumentos presentados por los estados que están a la cabeza de estas materias. Éstos son por el momento una parte de los países del WEOG, constando de los países nórdicos, Canadá, Australia y Nueva Zelanda. Otros miembros del WEOG son más bien escépticos o incluso negativos a la causa indígena. Muchos de los países europeos consideran a los pueblos indígenas como minorías y se muestran negativos en lo que respecta a los derechos colectivos. Los Estados Unidos han mostra-

do una actitud abiertamente negativa y han sido uno de los estados más difíciles de negociar en las recientes negociaciones.

Por el momento Australia, Canadá y Dinamarca, junto con el Gobierno Autónomo de Groenlandia, son los promotores principales de los derechos indígenas. La iniciativa de establecer un punto especial de la agenda sobre el tema indígena surgió de Dinamarca, pero fue presentada en nombre de Australia, Bolivia, Canadá, Chile, Colombia, Dinamarca, Fiji, Finlandia, Islandia, Nueva Zelanda, Nicaragua, Noruega, Perú, Suecia, la Federación Rusa y Venezuela. Poco después, obtuvo el apoyo de varios otros países latinoamericanos. Los argumentos en favor de establecer un punto especial en la agenda refirieron a las resoluciones 50/157 de la Asamblea General, que adopta las actividades para el Decenio y recomienda que la Comisión de Derechos Humanos considere la celebración de un segundo seminario sobre el posible establecimiento de un foro permanente para los pueblos indígenas. También refiere a la resolución 1995/32 de la Comisión que dice que ésta debería volver a considerar en su 52ª sesión la cuestión de una declaración bajo un punto apropiado de la agenda, a ser decido. Además refiere a la resolución 1995/32 de ECOSOC que solicita a la Comisión en Derechos Humanos en su 52ª sesión revisar el progreso del Grupo de Trabajo sobre la Propuesta de Declaración y transmitir sus comentarios a ECOSOC en su sesión de 1996. Concluye que «a causa de la evolución dinámica de estas cuestiones, ya no es apropiado considerarlas bajo el punto del Informe de la Subcomisión».

Después de muchos cabildeos y conversaciones en los corredores de la Comisión, el positivo resultado final de la iniciativa se debió mucho al apoyo otorgado por Canadá, incluyendo al miembro canadiense del Buró, quien asiste al presidente. En forma para nada inesperada, el grupo asiático fue el más negativo respecto a las cuestiones indígenas, aunque el grupo Occidental tampoco fue fácil de encarar, y se tuvo que hacer mucho trabajo de «lobby», hasta llegar al punto cuando, el 1 de abril, ninguno de los países miembros pareció estar en contra de establecer el punto en la agenda - que había sido llamado «el tema indígena» para evitar que la discusión sobre el término «pueblos» o «poblaciones» bloqueara el proceso desde el comienzo. Puesto en la agenda como punto 23, fue discutido en la sesión de la tarde y en una sesión de la noche del 9 de abril y parte de la sesión de la mañana del 10.

Los pocos días que hubo entre la adopción definitiva del punto especial de la agenda y el principio de las discusiones dejaron poca

posibilidad para informar a los representantes indígenas y hacer los arreglos prácticos y económicos para que pudieran llegar a Ginebra. Se estaba, además, en plena Pascua, y muchas oficinas estaban cerradas y muchas personas no podían ser localizadas. A pesar de ésto, varios representantes indígenas lograron hacerse presentes, y 13 organizaciones indígenas y de solidaridad figuraban en la lista de oradores para el punto 23 de la agenda.

Declaraciones importantes

Entre las muchas declaraciones importantes realizadas se puede destacar la del representante de los *kwe* de Botswana, también conocidos como *bosquimanos* o *san*. Su discurso recomendó que los puntos siguientes bajo la agenda 23 incluyeran procedimientos para la participación política en todas las decisiones que afecten a las comunidades indígenas; provisión de los medios y todo lo necesario para el autodesarrollo indígena; protección y promoción de la cultura indígena, etnología, sistemas de conocimiento y creencia; y reconocimiento de los derechos de propiedad de la tierra, acceso y uso de los territorios tradicionales.

La declaración del Concejo Saami contenía varias propuestas constructivas, incluyendo una sugerencia de nombre para el foro permanente, que se podría llamar *La Comisión de la ONU sobre la situación de los pueblos indígenas*. Recomendó que el foro permanente fuera establecido como un organismo subsidiario de ECOSOC, y que considere cuestiones tales como salud, desarrollo, educación, cultura y medio ambiente. El mandato debería capacitar al foro a tratar efectivamente cuestiones concernientes a los pueblos indígenas, y debería:

«tener el potencial de facilitar a otros órganos y agencias especiales de la ONU la instrumentación de políticas y programas coherentes y coordinados en beneficio de los pueblos indígenas y que incorporen el punto de vista indígena en su conceptualización e implementación.»

Esta declaración también dio énfasis a la Propuesta de Declaración como un logro de importancia, que no se debe debilitar de ninguna manera, e instó al Grupo de Trabajo de la Comisión sobre la Propuesta de Declaración a asegurar que se fortalezcan los principios de derechos humanos en que se funda la Declaración durante las consideraciones de la Propuesta de Declaración. Finalmente

destacó las cuestiones cardinales para el Decenio, como la adopción de la Propuesta de Declaración en su forma actual antes del fin de la primera mitad del Decenio, y propuso, en forma interesante, la elaboración de normas internacionales para la protección y promoción de los derechos humanos de los pueblos indígenas, comenzando por la redacción de un Convenio de la ONU sobre los derechos de los pueblos indígenas a principio de la segunda mitad del Decenio.

Una declaración de La Sociedad para los Pueblos Amenazados encaró la cuestión de la libre determinación y el hecho de que unos gobiernos se oponen al artículo de la Declaración que trata de la libre determinación con el argumento de que no es un concepto claro en el derecho internacional. Con referencia a Papúa Occidental, la opresión de los *karenni* por el gobierno de Myanmar, y la violación continua de los derechos humanos en Chittagong Hill Tracts, declaró que:

«Cuando el sistema político y el gobierno de un estado son tan exclusivos y no democráticos que ya no se puede decir que representan a toda la población, y oprimen a los indígenas, se debería permitir a ese pueblo ejercer sus derechos a la libre determinación.»

También encaró la cuestión de que el derecho internacional aclare adecuadamente los conceptos de libre determinación como referentes a todos los pueblos, y que el concepto de pueblos indígenas en sí mismo sea bien definido como otros conceptos de uso corriente en el derecho internacional. En otra declaración hecha en nombre de IWGIA, una representante *cree* citó que:

«cualquier esfuerzo para definir quiénes o qué son los pueblos indígenas se considera como otro intento de despojar y usurpar nuestro derecho inherente a la existencia. Asumir el derecho a definir a los pueblos indígenas es seguir negando nuestro derecho a la libre determinación, ya que no puede haber ninguna expresión más fundamental de ese derecho que la capacidad de determinar quien uno es a partir de la autoidentificación.»

Aparte de encarar sus problemas e intereses específicos, la mayoría de los oradores indígenas expresaron su satisfacción por el hecho de que el tema indígena había llegado a convertirse en un punto específico de la agenda. Fueron también bastante unánimes en el énfasis de su anhelo de que se mantenga la Propuesta de Declara-

ción en su forma actual, y muchos abogaron por la continuación de las discusiones y negociaciones para establecer un foro permanente.

Por el bloque gubernamental hablaron 13 gobiernos miembros y un número menor de gobiernos observadores. En general, las ponencias aceptaron el hecho de que la Comisión ha encarado la cuestión indígena. Muchos mencionaron la continuación del trabajo en lo que respecta al foro permanente y a la redacción de la Declaración, y muchos alabaron el trabajo realizado por el Grupo de Trabajo sobre Poblaciones Indígenas.

En la declaración realizada por el representante del Gobierno Autónomo de Groenlandia en nombre de los países nórdicos, se instó al Centro para los Derechos Humanos, al comité de ONG y a los gobiernos a hacer todo lo posible para asegurar el acceso más libre posible a los representantes indígenas al grupo de trabajo que trata la Propuesta de Declaración. Se lamentó que la primera reunión del grupo de trabajo no haya estado realmente abierta a todos los participantes indígenas. Al mismo tiempo, felicitó al presidente del grupo, el Embajador Urrutia, por la manera impecable en que se condujeron las negociaciones y por sus frecuentes consultaciones con los representantes indígenas. Esta declaración también mencionó la revisión de los mecanismos, procedimientos y programas existentes de la ONU referentes a los pueblos indígenas, acordada durante el seminario sobre el foro permanente realizado en Copenhague en junio de 1995. La revisión fue confirmada por la quincuagésima Asamblea General, y será terminada antes de la quincuagésima primera Asamblea General en 1996. Los países nórdicos instaron al Secretario General a que asegurara la circulación de los resultados de la revisión *«con la suficiente anterioridad a la quincuagésima primera sesión de la Asamblea General para dejar tiempo suficiente para las consultaciones con los pueblos indígenas»*. Se espera que los resultados de esta revisión estarán listos para la discusión entre los representantes indígenas a la reunión del Grupo de Trabajo sobre Poblaciones Indígenas en julio.

Se debería agregar aquí que la revisión se propuso como una forma de obtener una mejor documentación sobre el estado actual de cosas en la ONU acerca de la accesibilidad de los pueblos indígena al sistema, y las maneras en que los diferentes organismos e instrumentos de las organizaciones se hacen cargo de los intereses de los pueblos indígenas. Ésto, por supuesto, está relacionado con la demostración de la necesidad de establecer un foro permanente

para pueblos indígenas - un foro cuyo mandato y actividades se deben basar en el punto de vista de los pueblos indígenas acerca de los requisitos y negligencias del sistema tal como es, y la necesidad de coordinar los instrumentos que existen dentro del sistema.

La declaración de los gobiernos nórdicos, igual que las declaraciones de otros gobiernos, también mencionó la idea de celebrar un segundo seminario para seguir discutiendo el posible establecimiento de un foro permanente entre representantes indígenas y gobiernos. Este seminario sólo puede tener lugar después de que la Asamblea General y la Comisión de Derechos Humanos hayan recibido y discutido los resultados de la revisión en sus próximas sesiones. Los países nórdicos están ávidos de promover la idea de un foro permanente, y en su declaración conjunta también instaron al Grupo de Trabajo sobre Poblaciones Indígenas a dar consideración prioritaria, en su decimocuarta sesión, a la discusión de las ideas de los pueblos indígenas acerca de la estructura, mandato y ámbito de tal foro.

Después de la finalización de las declaraciones sobre este punto de la agenda -que, sorprendentemente, considerando el corto período de preparación, llevó más de un día entero- comenzó el trabajo relativo a las resoluciones. Se presentaron cuatro resoluciones acerca de cuestiones indígenas, comenzando por Australia, Dinamarca y Nueva Zelanda. La siguiente es una lista de estas resoluciones y sus puntos principales.

Resoluciones adoptadas el 19 de abril en la quincuagésima segunda sesión de La Comisión de Derechos Humanos

1) Resolución sobre el foro permanente, presentada por el gobierno danés y apoyada por 30 miembros de la Comisión, (E/CN.4/1996/L.70/rev.1).

Al presentar la resolución para su adopción, el representante de la comisión danesa, expresó con referencia al diálogo entre gobiernos:

«El objetivo de la propuesta de resolución es exactamente fortalecer y ampliar este diálogo, basado en los resultados alcanzados hasta ahora en la Asamblea General, en la Comisión de Derechos Humanos y en el Seminario de la ONU realizado en Copenhague en junio de 1995. La propuesta de resolución apoya la idea que surgió en el seminario de Copenhague de que los mecanismos,

programas y procedimientos existentes de la ONU relativos a los pueblos indígenas deberían ser revisados por el Secretario General. Esta revisión está ahora en marcha y es nuestra esperanza que el resultado de la misma, así como el informe del seminario de Copenhague, fortalezcan aún más el diálogo sobre un foro permanente, tal como se estipula en la propuesta de resolución.»

La resolución:

«acepta la recomendación de la Asamblea General, tal como está contenida en la resolución 50/157 de la Asamblea, de que el Secretario General, basándose en la experiencia de la Comisión de Derechos Humanos, así como en la Comisión para un Desarrollo Sustentable y otros cuerpos pertinentes, emprenda una revisión, en consultación estrecha con los Gobiernos y teniendo en cuenta los puntos de vista indígenas, de los existentes mecanismos, procedimientos y programas dentro de las Naciones Unidas acerca de los indígenas e informe a la Asamblea General en su quincuagésima primera sesión.»

La resolución también:

«solicita la finalización de la revisión y su circulación a los gobiernos, organizaciones intergubernamentales pertinentes y organizaciones indígenas para sus comentarios con la debida anterioridad a la quincuagésima primera sesión de la Asamblea General.»

E igualmente importante:

«solicita al Grupo de Trabajo sobre Poblaciones Indígenas que en su decimocuarta sesión continúe dando prioridad a la consideración de un posible establecimiento de un foro permanente para pueblos indígenas y que someta sus comentarios y sugerencias, a través de la Subcomisión, a la Comisión de Derechos Humanos.»

Y:

«solicita en particular, al Grupo de Trabajo sobre Poblaciones Indígenas a que efectúe su propia contribución a la revisión de los existentes mecanismos, procedimientos y programas relativos a los indígenas, en la agenda de su decimocuarta sesión y solicite al Secretario General a que invite a los organismos y agencias especializadas pertinentes de las Naciones Unidas a que presenten

información escrita sobre sus contribuciones a la revisión conducida por el Secretario General de acuerdo con la resolución 50/157 de la Asamblea General.»

El próximo objetivo en el proceso de establecer un foro permanente es acordar la realización de otro seminario, y la resolución:

«Decide continuar con la consideración de un segundo seminario en su quincuagésima tercera sesión en el contexto de la consideración de la Comisión sobre el posible establecimiento de un foro permanente bajo el punto de la agenda titulado el 'tema indígena'.»

2) Resolución sobre el Grupo de Trabajo abierto sobre la Propuesta de Declaración sobre los derechos de los pueblos indígenas. (E/CN.4/1996/L.55). Esta resolución fue presentada por Australia y fue adoptada sin votación. Su conclusión principal es que:

«Autoriza al grupo de trabajo intersesional abierto de la Comisión de Derechos Humanos establecido de acuerdo con la resolución 1995/32 de la Comisión de Derechos Humanos, a reunirse durante un período de 10 días antes de la quincuagésima tercera sesión de la Comisión, enfrentando los costos de la reunión con los recursos existentes;»

También:

«Alienta a las organizaciones indígenas que todavía no se estén registradas a participar en el grupo de trabajo y aquellas que así lo quieran soliciten autorización de acuerdo con el procedimiento establecido en el anexo a la resolución 1995/32 de la Comisión de Derechos Humanos.»

3) Australia también presentó una resolución. (E/CN.4/1996/L.56), apoyada por los países escandinavos y otros gobiernos, adoptada sin votación, acerca del Decenio. Los párrafos más importantes de esta resolución son los párrafos operativos 5 y 6, las redacciones de los cuales son, respectivamente:

«Acepta la afirmación de la Asamblea General como un objetivo importante del Decenio la adopción de una declaración sobre los derechos indígenas;» y «También aceptar el reconocimiento por la Asamblea General de que entre los objetivos importantes del Decenio se encuentra la consideración del posible establecimiento de un foro permanente para personas indígenas dentro de las Naciones Unidas;»

Varios gobiernos, incluyendo a los EE.UU., el Reino Unido y algunos países asiáticos hicieron esfuerzos durante las negociaciones para borrar la referencia al establecimiento de un foro permanente para pueblos indígenas como un objetivo importante del Decenio. No obstante, con el apoyo de algunos países latinoamericanos, la referencia fue mantenida en la resolución.

4) Finalmente se adoptó una resolución sobre el Grupo de Trabajo sobre Poblaciones Indígenas, (E/CN.4/1996/L.66). Fue presentada por Nueva Zelanda y apoyada por Australia, Canadá, los países escandinavos y varios países latinoamericanos.

Su contenido principal es la recomendación de que el Grupo de Trabajo sobre Poblaciones Indígenas sea autorizado a reunirse cinco días laborables antes de la 48a. sesión de la Subcomisión. Por sugerencia de Dinamarca se recomienda en el párrafo operativo 10 que durante la próxima reunión del Grupo de Trabajo, se realice una discusión sobre la contribución del Grupo de Trabajo al proceso de revisión de los programas y mecanismos existentes de la ONU relativos a los pueblos indígenas. Un asunto importante de discusión, previo a la adopción de esta resolución, fue el párrafo operativo 7, que trata de la cuestión sobre la definición de los pueblos indígenas. Como los lectores de las publicaciones de IWGIA sabrán, la cuestión de la definición es presentada regularmente, principalmente por los gobiernos asiáticos quienes se oponen a la inclusión de sus propios pueblos indígenas en el término internacionalmente aceptado de «indígena». La redacción de esta resolución refleja un compromiso entre aquellos gobiernos que creen que un continuo tratamiento de la cuestión de la definición es innecesario y aquellos que siguen declarando la necesidad de encarar esta cuestión. Dice:

«Toma conocimiento de la recomendación del Grupo de Trabajo de que el Presidente-Informante encare el concepto de personas indígenas, anota que cualquier trabajo debería tener en cuenta los puntos de vista de los Gobiernos y de las organizaciones indígenas, y solicita que se discuta sobre esta cuestión durante la decimocuarta sesión del Grupo de Trabajo bajo el punto existente de la agenda sobre fijación de normas y que el informe del Grupo de Trabajo se trasmita a los Gobiernos y a las organizaciones indígenas antes de la próxima sesión del grupo de trabajo interseccional abierto de la

Comisión de Derechos Humanos establecido de acuerdo con la resolución 1995/32.»

Comentarios finales

Como será notado inmediatamente por los lectores indígenas, todas las redacciones de las resoluciones omiten la palabra «pueblo» cuando se refieren a los pueblos indígenas. Ésto significa, por supuesto, un paso hacia atrás. Los gobiernos que apoyan los derechos indígenas están conscientes de este hecho, pero argumentan que si no omiten el término «pueblos» en las propuestas de resoluciones, las negociaciones para su adopción se detendrán antes de empezar. Puede ser cierto, pero no es una buena excusa, y ciertamente no impedirá a los representantes indígenas continuar su lucha por el término «pueblos» como símbolo de sus derechos.

A pesar de ésto se debe considerar la 52a. sesión de la Comisión de Derechos Humanos como bastante satisfactoria desde el punto de vista indígena. El sólo hecho de tener el tema indígena bajo un punto específico de la agenda de ahora en adelante, hará más fácil y menos caro para los representantes indígenas estar presente cuando se discuten los asuntos de su interés. Cualquiera que esté un poco familiarizado con el trabajo de la ONU sabrá que tratamos aquí con un proceso muy lento, donde cosas pequeñas que pueden parecer insignificantes a veces pueden ser consideradas como grandes avances. El destino futuro de la Propuesta de Declaración, el futuro posible de un foro permanente, y el resultado general del Decenio son todavía desconocidos. Como muchas otras veces, los pueblos indígenas no pueden confiar más que en sus esperanzas y en su propia energía. Es bueno que el número de actividades de interés para los pueblos indígenas aumente en la ONU, y aunque la cuestión indígena ciertamente no debería ser aislada en un punto de la agenda, en el marco de la agenda total de la Comisión de Derechos Humanos, es bueno que los representantes indígenas de ahora en adelante tengan la posibilidad de planear mejor su presencia y su contribución al debate en la Comisión.

Este año, un representante indígena recordó a la Comisión que un representante del pueblo *haudonesne* en 1923 trató de obtener acceso a la Liga de Naciones, pero le fue negado. Ahora, en 1996 existe un progreso al disponer de un punto específico de la agenda. Es comprensible su ligera ironía al declarar que por ésto, los pueblos indígenas están agradecidos.

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